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DOLBY LABORATORIES LICENSING CORPORATION
C/O OYEN WIGGS GREEN & MUTALA LLP
480-THE STATION, 601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA
CANADA

COPY MAILED

MAY 15 2008

OFFICE OF PETITIONS

In re Application of :
Lorne A. Whitehead et al :
Application No. 10/507,460 : DECISION GRANTING PETITION
Filed: September 10, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. B634 0005/GNM :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2862 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-19-09

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/507460 Patent No.: 7403332

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Patrick J. Assouad/
SPE

2862
Art Unit

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Paper No.

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

COPY MAILED
OCT 0 1 2008
OFFICE OF PETITIONS

In re Application of	:	
Selwood et al.	:	LETTER REGARDING
Application No. 10/507,463	:	PATENT TERM ADJUSTMENT
Filed: September 10, 2004	:	
Attorney Docket No. GJE-6595	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed July 30, 2008. Applicants disclose that the patent term adjustment at the time of the mailing of the notice of allowance is one hundred seventeen (117) days, not two hundred twenty-nine (229) days.

The request for review of the patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred seven **(207)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 22, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 229 days. Applicants disclose that the period of 354 days entered pursuant to 37 CFR 1.702(a)(1) for failure to take

action within 14 months after the fulfillment date of the application is incorrect. Specifically, applicants disclose that the requirements of 35 U.S.C. 371 were fulfilled on October 2, 2004. Thus, the period of adjustment pursuant to 37 CFR 1.702(a)(1) is 332 days, as the first Office action was mailed 14 months and 332 days later. In addition, applicants state that a period of reduction of 90 days should have been entered as applicants requested and were granted an extension of time on April 30, 2008 to file a request for continued examination (RCE).

Applicants' disclosures have been considered. Applicants are correct as to the date of fulfillment of the requirements of 35 U.S.C. 371, and as to the period of adjustment for Office delay. The period of adjustment of 354 days has been removed, and a period of adjustment of 332 days has been entered.

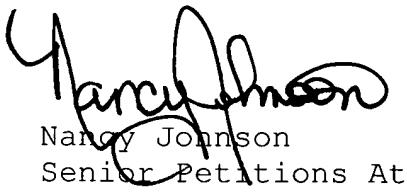
However, applicants are not correct with respect to the RCE. The RCE was not filed under circumstances that constitute a failure to engage in reasonable efforts to conclude examination or processing. A period of reduction of 90 days will not be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is two hundred seven (207) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Tuesday
Date: 9/30/2008

PALM INTRANET

Time: 23:10:35

PTA Calculations for Application: 10/507463			
Application Filing Date:	09/10/2004	PTO Delay (PTO):	354
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	125
Post-Issue Petitions:	0	Total PTA (days):	207
PTO Delay Adjustment:	-22		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	09/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	332		
61	09/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		354	
56	07/22/2008	MAIL NOTICE OF ALLOWANCE			
55	07/22/2008	ISSUE REVISION COMPLETED			
54	07/22/2008	DOCUMENT VERIFICATION			
53	07/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	07/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
51	07/21/2008	NOTICE OF ALLOWABILITY			
48	05/06/2008	DATE FORWARDED TO EXAMINER			
47	04/30/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	05/06/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	04/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	04/30/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	11/30/2007	NOTICE OF APPEAL FILED		91	36
42	11/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	11/29/2007	MAIL ADVISORY ACTION (PTOL - 303)			
40	11/26/2007	ADVISORY ACTION (PTOL-303)			
39	10/04/2007	DATE FORWARDED TO EXAMINER			
38	10/01/2007	AMENDMENT AFTER FINAL REJECTION			
37	10/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	05/31/2007	MAIL FINAL REJECTION (PTOL - 326)			
35	05/29/2007	FINAL REJECTION			

34	03/08/2007	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
33	03/05/2007	NEW OR ADDITIONAL DRAWING FILED			
32	03/21/2007	DATE FORWARDED TO EXAMINER			
31	03/05/2007	RESPONSE AFTER NON-FINAL ACTION		34	22
30	03/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	03/14/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
27	11/21/2006	CLEARED BY OIPE CSR			
26	11/21/2006	CLEARED BY OIPE CSR			
25	11/21/2006	CLEARED BY OIPE CSR			
24	11/21/2006	CLEARED BY OIPE CSR			
23	11/21/2006	CLEARED BY OIPE CSR			
22	10/30/2006	MAIL NON-FINAL REJECTION	354		-1
21	10/16/2006	NON-FINAL REJECTION			
20	12/10/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	10/16/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	04/11/2005	PRELIMINARY AMENDMENT			
15	03/29/2006	CASE DOCKETED TO EXAMINER IN GAU			
11.7	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	12/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/10/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9	09/10/2004	PRELIMINARY AMENDMENT			
8	10/02/2004	371 COMPLETION DATE			
7	09/07/2005	APPLICATION DISPATCHED FROM OIPE			
6	09/07/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	09/10/2004	ADDITIONAL APPLICATION FILING FEES			
4	09/10/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
3	06/17/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	02/15/2005	SEQUENCE DISCLOSURE PROBLEMS			
1	09/10/2004	INITIAL EXAM TEAM NN			

24 MAR 2005

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24 MAR 2005

Sidney L. Weatherford
ERICCSON, INC.
6300 Legacy Drive
M/S EVW 2-C-2
Plano, Texas 75024

In re Application of:	:	
OLSSON, Bertil; et al.	:	DECISION REGARDING
U.S. Application No.: 10/507,474	:	SUBMISSION UNDER
PCT No.: PCT/SE03/00368	:	37 CFR 1.42
International Filing Date: 05 March 2003	:	
Priority Date: 11 March 2002	:	
Attorney's Docket No.: P15365-US1	:	
For: OPTICAL FIBRE FEED ARRANGEMENT	:	

This communication is issued in response to applicants' submission on 03 March 2005 of a declaration executed on behalf of the deceased inventor, which has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 05 March 2003, applicants filed international application PCT/SE03/00368 which claimed a priority date of 11 March 2002 and which designated the United States. On 18 September 2003, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was 11 September 2004 (thirty months from the priority date).

On 10 September 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 22 February 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 03 March 2005, applicants filed the response considered herein. The response included payment of the required surcharge and declaration materials executed by the two surviving inventors and on behalf of deceased inventor Bertil OLSSON by his Executors, Agneta FAST-KARBERG and Maria BERGLUND.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for **both** the deceased inventor and the legal representative. The regulation expressly requires the inclusion of this information for the legal representative. As for the deceased inventor, such information is required because the legal representative must declare to all the facts which the inventor would have been required to state, and citizenship, residence and mailing address are among the facts which the inventor would have been required to set forth pursuant to 37 CFR 1.497(a) and 37 CFR 1.63.

Here, the declaration document complies with 37 CFR 1.497(b)(2), discussed above, in that it includes the name, citizenship and residence information for the deceased inventor and for the Executors, as required. The declaration also expressly states the relationship of these persons to the deceased inventor (i.e., "Executor" of the deceased inventor's estate). However, the declaration document submitted appears to be a compilation of at least two copies of the declaration, which is not acceptable (see MPEP § 201.03, page 200-7: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). This is evidenced by the fact that the filed declaration materials include two different copies of "Page 3 of 5" (one executed by each of the Executors).

Because the declaration submitted is not in an acceptable form, the declaration cannot be accepted under 37 CFR 1.497 and 1.42.

CONCLUSION

The 03 March 2005 filing under 37 CFR 1.42 and 1.497 is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include complete copies of all executed declarations. Such declarations must include all the information required under 37 CFR 1.497.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

05 MAY 2005

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#8

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Sidney L. Weatherford
ERICCSON, INC.
6300 Legacy Drive
M/S EVW 2-C-2
Plano, Texas 75024

In re Application of: OLSSON, Bertil; et al.	:	
U.S. Application No.: 10/507,474	:	DECISION REGARDING
PCT No.: PCT/SE03/00368	:	RENEWED SUBMISSION
International Filing Date: 05 March 2003	:	UNDER 37 CFR 1.42
Priority Date: 11 March 2002	:	
Attorney's Docket No.: P15365-US1	:	
For: OPTICAL FIBRE FEED ARRANGEMENT	:	

In a decision mailed on 24 March 2005, this Office rejected the declaration filed by applicant on 03 March 2005 for failure to satisfy 37 CFR 1.42 and 1.497. Specifically, the declaration document submitted appeared to be an unacceptable compilation of at least two copies of the declaration. The decision set forth an extendable two-month response period.

On 26 April 2005, applicants filed a response to the decision which included complete copies of the previously filed declaration. These complete copies of the declarations include the information required under 37 CFR 1.497 and are in an acceptable form. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The declarations filed on 26 April 2005 are accepted as complying with 37 CFR 1.497 and 37 CFR 1.42, with Executors Agneta FAST-KARBERG and Maria BERGLUND signing on behalf of deceased inventor Bertil OLSSON.

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The application's date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 April 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

#7

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25 JUN 2007

22850
OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
TODA, Haruki :
U.S. Application No.: 10/507,475 :
PCT No.: PCT/JP2003/000155 : **DECISION**
Int. Filing Date: 10 January 2003 :
Priority Date: 04 April 2004 :
Attorney Docket No.: 89165.0017 :
For: PHASE-CHANGE MEMORY DEVICE :

This is a decision on the papers filed on 24 April 2006 and 31 May 2007. No fee is required.

BACKGROUND

On 02 February 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicant was given two months to respond.

On 24 April 2006, applicant submitted a response to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, a petition to reset time period to reply; a declaration by Troy M. Schmelzer; an executed declaration; and exhibits A - E.

On 08 May 2006, a Notification of Abandonment was mailed.

On 31 May 2007, a petition to withdraw the holding of abandonment was mailed along with an executed declaration and a copy of the papers filed 24 April 2006 with a copy of the date-stamped postal receipt for those documents.

On 04 June 2007, a change of correspondence address and power of attorney was submitted.

DISCUSSION

The papers filed 24 April 2006 were located in the file. Applicant's postcard receipt for those documents will not be considered.

Petition to Reset Time Period

The time period to respond to the Form PCT/DO/EO/905 mailed 02 February 2005 including all extensions of time pursuant to 37 CFR 1.136(a) expired 02 September 2005. Accordingly, the above-captioned application was abandoned by operation of law when the petition was received on 24 April 2006. As such, this petition is deemed a petition to withdraw the holding of abandonment based on a failure to receive an Office action, not a petition to reset the time period due to late receipt of an Office action. *See* § 711.03(c) MPEP.

Petition to Withdraw the Holding of Abandonment

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

Applicant satisfied items (1) and (2) in the declaration of Mr. Schmelzer.

With regards to item (3), applicant submitted documentary evidence in the form of a copy of the law firm's computer daily mail log during the period of 17 February 2005 to 31 March 2005. Applicant also submitted a copy of Mr. Schmelzer's daily docket report for 17 February 2006 and 10 March 2006.

The daily docket report evidence for 17 February 2006 and 10 March 2006 is not relevant to show that the Form PCT/DO/EO/905 mailed 02 February 2005 was received. The computer mail log for the law firm, on the other hand, is relevant and indicates that the Form PCT/DO/EO/905 was not received and processed. But this evidence is still not sufficient to meet item (3). Section 711.03(c) of the MPEP discusses the docket record requirement and states, in part:

> A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. **For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.** (Emphasis added).

Here, applicant must provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 17 April 2005). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date.

The computer mail log from 17 February 2005 to 31 March 2005 does not satisfy this requirement. Moreover, a single computer docket record for 17 April 2005 showing only the subject application (as submitted in the petition as Mr. Schmelzer's daily docket report) would also not satisfy this requirement. For this reason, item (3) is not satisfied.

Applicant has not yet met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Docket No. 310067US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Haruki TODA

SERIAL NO: 10/507,475

FILED: September 10, 2004

FOR: PHASE-CHANGE MEMORY DEVICE

CONFIRMATION OF ATTORNEY AND CORRESPONDENCE ADDRESS

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The undersigned hereby confirms the attorneys of record for the above-identified application as those appearing in the Power of Attorney filed herewith, and accordingly requests the appropriate attorneys of record be noted, and the correct correspondence address be entered for this application as the address associated with Customer Number:

22850

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters
Registration No. 29,870

Customer Number
22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 02/07)

SINGLE ASSIGNEE
CASE SPECIFIC POWER OF ATTORNEY

POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM and STATEMENT UNDER 37 CFR 3.73(b)		
	Application Number	10/507,476
	Filing Date	09/10/2004
	First Named Inventor	Haruki TODA
	Title: PHASE-CHANGE MEMORY DEVICE	
	Attorney Docket Number:	

I hereby appoint:

■ Practitioners associated with the Customer Number 22850

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

■ The address associated with the above-mentioned Customer Number.

I am the:

■ Assignee of record of the entire interest. See 37 CFR 3.71.

KABUSHIKI KAISHA TOSHIBA (Name of Assignee), a Corporation (Type of Assignee, e.g., corporation, partnership, government agency, etc.)

■ States that it is the assignee of the entire right, title, and interest. A copy of the assignment is attached.

SIGNATURE OF ASSIGNEE OF RECORD

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature — Date

Taisuke Kato

Printed or Typed Name — Telephone Number

General Manager, Intellectual Property Division

Title

THIS FORM CAN ONLY BE SIGNED WHERE THERE IS ONLY A SINGLE ASSIGNEE

Attorney Docket No. 89165.0017

ASSIGNMENT

(1-8) Name(s) of Inventor(s)	(1)	Haruki TODA	(5)
	(2)		(6)
	(3)		(7)
	(4)		(8)

In consideration of the good and valuable considerations paid to each of the undersigned, the undersigned agree(s) to assign, and hereby does assign, transfer and set over to

(9) Name of Assignee	(9)	KABUSHIKI KAISHA TOSHIBA
(10) State of Incorporation of Assignee	(10)	Tokyo, Japan
(11) Address of Assignee	(11)	of 1-1, Shibaura 1-chome, Minato-ku, Tokyo 105-8001, Japan (hereinafter designated as the Assignee) the entire worldwide right, title and interest in the invention known as
(12) Identification of Invention, such as Title, Case Number or Foreign Application Number	(12)	PHASE-CHANGE MEMORY DEVICE, 10/507,475 for which the undersigned has (have) executed an application for patent in the United States of America and all patent applications in foreign countries corresponding thereto or based thereon.
(13) Date(s) of Signing of Declaration	(13)	on

1) The undersigned agree(s) to execute all papers necessary in connection with any original, reissue, divisional and continuing United States and foreign applications for the above-identified invention and also to execute separate assignments in connection with such applications as the Assignee may deem necessary or expedient.

2) The undersigned agree(s) to execute all papers necessary in connection with any interference which may be declared concerning this application or continuation or division thereof and to cooperate with the Assignee in every way possible in obtaining evidence and going forward with such interference.

3) The undersigned agree(s) to execute all papers and documents and perform any act which may be necessary in connection with claims or provisions of the International Convention for Protection of Industrial Property or similar agreements.

4) The undersigned agree(s) to perform all affirmative acts which may be necessary to obtain a grant of a valid United States patent to the Assignee.

5) The undersigned hereby authorize(s) and request(s) the Commissioner of Patents to issue any and all Letters Patents of the United States resulting from said application or any division or divisions or continuing applications thereof to the said Assignee, as Assignee of the entire interest, and hereby covenants that he has (they have) full right to convey the entire interest herein assigned, and that he has (they have) not executed any agreement in conflict herewith.

6) The undersigned hereby appoints the persons associated with Customer Number:

000026021 ⟶

the power to insert on this assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

Date: October 2, 2004 Signature of Inventor 1 Haruki Toda

Date: _____ Signature of Inventor 2 _____

Date: _____ Signature of Inventor 3 _____

Date: _____ Signature of Inventor 4 _____

Date: _____ Signature of Inventor 5 _____

Date: _____ Signature of Inventor 6 _____

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1940 Duke Street
Alexandria, VA 22314

In re Application of :
TODA, Haruki :
U.S. Application No.: 10/507,475 :
PCT No.: PCT/JP2003/000155 : **DECISION**
Int. Filing Date: 10 January 2003 :
Priority Date: 04 April 2004 :
Attorney Docket No.: 89165.0017 :
For: PHASE-CHANGE MEMORY DEVICE :

This decision is in response to the papers filed on 06 August 2007 which are treated as a renewed petition to withdraw the holding of abandonment.

BACKGROUND

On 25 June 2007, a decision dismissing applicants' petition to withdraw a holding of abandonment based upon nonreceipt of an office action was mailed. Applicants were given two months to respond.

On 06 August 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, a supplemental declaration of Troy M. Schmelzer and a copy of his law firm's docket report of all open matters from 15-17 April 2005.

DISCUSSION

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement. Items (1) and (2) were completed in the original petition.

Applicant submitted the computer mail log for the law firm in the original petition filed 31 May 2007. However, the prior decision noted that applicants must also provide a copy of the docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 17 April 2005) to satisfy item (3) above.

In the renewed petition, applicants submitted the required evidence in the form of a copy of the law firm's docket report during the period from 15-17 April 2005. A review of this evidence shows that the Form PCT/DO/EO/905 was not received. This is sufficient to meet the docket record requirement noted in item (3) above.

Applicants have now met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

In view of the above, the renewed petition to withdraw the holding of abandonment is **GRANTED**.

The Notice of Abandonment mailed 08 May 2006 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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25 FEB 2008

22850
OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
TODA, Haruki :
U.S. Application No.: 10/507,475 :
PCT No.: PCT/JP03/00155 :
Int. Filing Date: 10 January 2003 : **DECISION**
Priority Date: 04 April 2004 :
Attorney Docket No.: 89165.0017 :
For: PHASE-CHANGE MEMORY DEVICE :

This decision is in response to the papers filed 17 December 2007 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 24 April 2006, applicant purportedly filed a response which contained, *inter alia*, an executed declaration.

On 17 October 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit in which to respond was set with extensions of time available.

On 17 December 2007, applicants filed the instant petition which was accompanied by, *inter alia*, a copy of a declaration purportedly filed 24 April 2006 and a stamped postcard receipt for the 24 April 2006 filing.

DISCUSSION

A review of the subject application shows that the 24 April 2006 declaration purportedly filed in the above-captioned application was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant has provided a copy of the date-stamped postcard receipt for documents submitted 24 April 2006. A copy of the declaration purportedly filed 24

April 2006 was also provided. The postcard receipt records that among the papers received in the USPTO included a "Declaration. Affidavit of Oath (1) Page(s))." The postcard receipt is stamped "OIPE APR 24 2006" across its face. The U.S. application number, docket number and name of the applicant are all listed on the postcard receipt.

Accordingly, applicant has provided *prima facie* evidence that the declaration was received by the USPTO on 24 April 2006.

DECISION

For the reasons above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The declaration originally filed 24 April 2006 is in compliance with 37 CFR 1.497(a) and (b).

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 January 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 April 2006.

This application is being forwarded to the Office of Patent Application Processing for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 07, 2008

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/507476 Patent No.: 7232618 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
SPE

1794
Art Unit

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APR - 6 2005

E JOSEPH GESS
BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
SUITE 1100
ALEXANDRIA, VA 22313-1404

In re Application of :
Suzy Charbit et al. :
Serial No.: 10/507,485 : PETITION TO MAKE SPECIAL
Filed: September 13, 2004 :
Attorney Docket No.: 032013-103 :

This is in response to applicants' petition filed March 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore, the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

MAILED

AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Reginald Lyall Reid
Application No. 10/507,488
Filed: May 2, 2005
Attorney Docket No. 4503-1011

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 28, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 29, 2009. A Notice of Abandonment was mailed on May 8, 2009. On June 16, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Foley and Lardner
Suite 500
3000 K Street NW
Washington DC 20007

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Yasuhiro Nishitani et al.	:	
Application No. 10/507,502	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. 067242-0174	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 18, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Foley and Lardner has been revoked by the assignee of the patent application on December 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Finnegan, Henderson, Farabow, Garrett, & Dunner LLP**
901 New York Avenue, NW
Washington DC 20001-4413

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON,DC 20007

MAILED

APR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Moritz Rossner, et al. :
Application No. 10/507,506 : DECISION GRANTING PETITION
Filed: December 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 085449-0150 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 7, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Moritz Rossner	: DECISION ON REQUEST FOR
Patent Number	: 7585635	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **429** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

17 MAR 2009

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of:
OZASA, et. al.
Application No.: 10/507,507
PCT No.: PCT/JP03/02923
Int. Filing Date: 12 March 2003
Priority Date: 13 March 2002
Attorney's Docket No.: 12480-000061/US
For: PROCESS FOR PRODUCING BIO-DEGRADABLE MOLDED ITEM AND MOLDING DIES THEREFOR

DECISION

This decision is in response to applicants' "LETTER REQUESTING CORRECTED OFFICIAL RECEIPT" filed 16 January 2009 seeking correction of the application title. No petition fee is required.

BACKGROUND

On 12 March 2003, applicants filed international application PCT/JP03/02923 which claimed a priority date of 13 March 2002. The deadline for payment of the basic national fee was thirty months after the international filing date, i.e. 13 September 2004.

On 13 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an executed declaration and power of attorney, an English translation of the international application and a copy of the international application. The title set forth on the published international application is "PROCESS FOR PRODUCING BIODEGRADABLE MOLDED ITEM AND MOLDING DIES THEREFOR."

On 16 January 2009, applicants filed the present request considered herein. The request asks that the title of the invention to be corrected to "METHOD AND MOLD FOR MANUFACTURING BIODEGRADABLE MOLDED ARTICLES." Applicant has provided a stamped, return postcard from the USPTO showing that this request was originally filed on 26 July 2005.

DISCUSSION

Section 1893.03(e)(1) of the Manual Of Patent Examining Procedure (MPEP) states the following regarding the title in U.S. national stage applications:

In the absence of an application data sheet (37 CFR 1.76) or preliminary

> amendment changing the title, the Office will use the title of the invention that appears on the first page of the description of the published international application (if published under PCT Article 21 in English) or the title that appears on the first page of the description of the English translation of the international application (if not published under PCT Article 21 in English) in preparing the official filing receipt. If the title does not appear on the first page of the description, and an application data sheet or preliminary amendment changing the title has not been furnished, then the title will be taken from the cover page of the published international application. If applicant furnishes an application data sheet or preliminary amendment changing the title, the Office will use the title as indicated in such document in preparing the official filing receipt. If applicant submits both an application data sheet and a preliminary amendment, the later filed document will govern. See 37 CFR 1.76(d)(1). An application data sheet will govern over a concurrently filed preliminary amendment. See 37 CFR 1.76(d)(2)

Here, pursuant to the policy set forth in the MPEP, the USPTO has assigned the national stage application the "title of the invention indicated on the cover page of the publication." Applicants have not filed either a preliminary amendment or an application data sheet (ADS) to change the title. Accordingly, applicants' present request to modify the title of the present application cannot be granted on the present record.

CONCLUSION

Applicants' request for a corrected filing receipt is DISMISSED without prejudice.

The title of record remains PROCESS FOR PRODUCING BIODEGRADABLE MOLDED ITEM AND MOLDING DIES THEREFOR," as set forth on the published international application.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

13 APR 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 8910
RESTON VA 20195

In re Application of:	:	
OZASA, et. al.	:	
Application No.: 10/507,507	:	SUPPLEMENTAL
PCT No.: PCT/JP03/02923	:	
Int. Filing Date: 12 March 2003	:	DECISION
Priority Date: 13 March 2002	:	
Attorney's Docket No.: 12480-000061/US	:	
For: PROCESS FOR PRODUCING BIO-DEGRADABLE MOLDED ITEM AND MOLDING DIES THEREFOR	:	

This decision supplements the decision of the Office of PCT Legal Administration mailed 17 March 2009 concerning a request for corrected filing receipt.

DISCUSSION

The decision of 17 March 2009 indicated that the request for correction of the title was DISMISSED without prejudice and that the title of record remains PROCESS FOR PRODUCING BIODEGRADABLE MOLDED ITEM AND MOLDING DIES THEREFOR," as set forth on the published international application. The decision cited section 1893(e)(1) of the Manual Of Patent Examining Procedure (MPEP) which states the following regarding the title in U.S. national stage applications:

> In the absence of an application data sheet (37 CFR 1.76) or preliminary amendment changing the title, the Office will use the title of the invention that appears on the first page of the description of the published international application (if published under PCT Article 21 in English) or the title that appears on the first page of the description of the English translation of the international application (if not published under PCT Article 21 in English) in preparing the official filing receipt. If the title does not appear on the first page of the description, and an application data sheet or preliminary amendment changing the title has not been furnished, then the title will be taken from the cover page of the published international application. If applicant furnishes an application data sheet or preliminary amendment changing the title, the Office will use the title as indicated in such document in preparing the official filing receipt. If applicant submits both an application data sheet and a preliminary amendment, the later filed document will govern. See 37 CFR 1.76(d)(1). An application data sheet will govern over a concurrently filed preliminary amendment. See 37 CFR 1.76(d)(2)

A further review of the published international application finds that while an

English version of the title is provided on the published international application, the international application published under PCT Article 21 in Japanese. Therefore, the Office should have used the title provided on the first page of the description as provided in the English translation filed 13 September 2004.

CONCLUSION

Applicant's request for a corrected filing receipt indicating a title of "METHOD AND MOLD FOR MANUFACTURING BIODEGRADABLE MOLDED ARTICLES" is GRANTED.

This application is being forwarded to the Office Of PCT Operations, National Stage for the issuance of a corrected filing receipt with the title listed above.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Crowell & Moring
Intellectual Property Group
1001 Pennsylvania Avenue NW
Washington, DC 20004-2595

Mail Date: 04/21/2010

Applicant	: Hitoshi Onizawa	: DECISION ON REQUEST FOR
Patent Number	: 7577485	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **732** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

01 AUG 2008

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In Re Application of	:	
MOURI et al.	:	
Application No.: 10/507,523	:	DECISION
PCT No.: PCT/IB03/00923	:	
Int. Filing Date: 14 March 2003	:	
Priority Date: 15 March 2002	:	
Attorney Docket No.: 121014	:	
For: HOLLOW-WEAVE AIRBAG	:	

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT" and corrected Notice of Acceptance filed in the United States Patent and Trademark Office (USPTO) on the following dates: 15 May and 15 November 2006, 02 October 2007 and 11 April 2008.

BACKGROUND

On 14 March 2003, applicant filed international application No. PCT/IB03/00923 which claimed a priority date of 15 March 2002 and which designated the United States. Thereafter, on 14 September 2004, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 15 December 2004, applicant filed an executed declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period.

On 22 December 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was erroneously mailed, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required.

On 22 February 2005, applicant filed a response to the 905 along with a copy of the previously filed declaration and a USPTO date-stamped itemized post card receipt. The response indicated that the declaration and the surcharge for filing the oath or declaration after the thirty-month period were filed on 15 December 2004.

On 04 March 2005, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed incorrectly indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 February 2005.

DISCUSSION

Applicant urges that the Form PCT/DO/EO/903 be vacated and that a new Notification of Acceptance be issued indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 December 2004.

A review of the application in the USPTO's Image File Wrapper (IFW) file confirms that the executed declaration, in compliance with 37 CFR 1.497(a) and (b), was submitted on 15 December 2004. All of the requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) were

satisfied.

In light of the above, the 22 December 2004 Notification of Missing Requirements (Form PCT/DO/EO/905) is hereby **VACATED**.

The Notification of Acceptance mailed on 04 March 2005 was erroneously issued and is hereby **VACATED**.

A new Notification of Acceptance will be issued indicating that the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 15 December 2004.

CONCLUSION

For the reasons set forth above, applicant's request to vacate the Notification of Acceptance and issue a corrected filing receipt is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

The 22 December 2004 Notification of Missing Requirements (Form PCT/DO/EO/905) is hereby **VACATED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 04 March 2005 was erroneously issued and is hereby **VACATED**.

A new Notification of Acceptance (Form PCT/DO/EO/903) and a corrected filing receipt will be issued, indicating the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **15 December 2004.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571) 273-0459

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OCT - 6 2005

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of :
Werner Oberegger : PETITION TO MAKE SPECIAL
Serial No.: 10/507,525 :
Filed: September 14, 20004 :
Attorney Docket No.: 100338.54030US

This is in response to applicant's petition filed April 26, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

14 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND, OR 97229

In re Application of MARCHANT	:	
U.S. Application No.: 10/507,528	:	
PCT Application No.: PCT/GB03/00725	:	
Int. Filing Date: 20 February 2003	:	DECISION
Priority Date Claimed: 09 March 2002	:	
Attorney Docket No.: SWIN 3151	:	
For: IMAGE CAPTURE AND RETRIEVAL APPARATUS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 13 September 2004.

BACKGROUND

On 20 February 2003, applicant filed international application PCT/GB03/00725, which claimed priority of an earlier United Kingdom application filed 09 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 09 September 2004.

International application PCT/GB03/00725 became abandoned as to the United States for failure to timely pay the basic national fee.

On 13 September 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 20 February 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 September 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of
Brock Wayne Watson et al.
Application No. 10/507,567
Filed: September 13, 2004
Attorney Docket No. 25791.95.03

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

A courtesy copy of this decision is being mailed to the first named signing inventor. A courtesy copy is being mailed to the address noted in the request. If the attorneys with this firm desire to receive future communication concerning this application, the proper power of attorney documents should be submitted.

A non-final office action was mailed on July 27, 2007. Failure to timely respond will result in the abandonment of this application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Brock Wayne Watson
2535 Marsh Lane, #1004
Carrollton, TX 75006

cc: Todd Mattingly
King & Spalding, LLP
1100 Louisiana Street, Suite 4000
Houston, TX 77002

I hereby certify that this paper [redacted] with any paper referred to as being attached or enclosed) is being transmitted [redacted] facsimile to the Patent and Trademark Office, Attn: Examiner R. D. Bacares, facsimile no. (571) 272-0459, on the date shown below.

Dated: January 25, 2006 Signature: (Brenda C. McFadden)

Docket No.: 09669/036001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Simon Choi

Application No.: 10/507,568

Art Unit: N/A

Filed: September 13, 2004

Examiner: R. D. Bacares

For: ACTIVATING AN IDENTITY MODULE FOR A COMMUNICATION SYSTEM

PETITION UNDER 37 C.F.R. § 1.181

RECEIVED
25 JAN 2006
Legal Staff
International Division

MS: PCT Legal Administration
ATTN: Examiner Bacares
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions the Commissioner to acknowledge receipt of the following documents and place them in the file associated with the referenced application: (i) Response to the Notification of Missing Requirements mailed on March 28, 2005, and (ii) the complete set of claims submitted on September 16, 2005. The following Statement of Facts indicates the facts as they stand in this application.

STATEMENT OF FACTS

1. Applicant mailed a Response to the Notification of Missing Requirements on April 12, 2005.

2. A return postcard date stamped April 12, 2005, attached hereto, was received by the Applicant indicating that the USPTO received the timely filed response to the Notification of Missing Requirements. (*See* Tab 1).

3. Applicant submitted a complete set of claims for the referenced application to Examiner R. D. Bacares on September 16, 2005, via facsimile. The Applicant received confirmation that the facsimile was received by the USPTO. (*See* Tab 2).

4. Applicant's representative called the PCT Legal Department on January 18, 2006, and spoke to Examiner Bacares regarding the status of the referenced application. Examiner Bacares indicated that (i) the Response to the Notification of Missing Requirements was never matched with the file associated with the referenced application at the USPTO and (ii) the complete set of claims mailed on September 16, 2005, was never matched with the file associated with the referenced application at the USPTO.

5. Applicant has attached the papers filed in Response to the Notification of Missing Requirements previously mailed to the USPTO on April 12, 2005. The Applicant submits that the attached papers are a true copy of the papers submitted on the date indicated on the return postcard. (*See* Tab 1).

6. Applicant has attached the set of claims previously faxed to Examiner R. D. Bacares on September 16, 2005. (*See* Tab 2).

Application No.: 10/[redacted]7,568 Docket No.: 09669/036001

REMARKS

In view of the facts, Applicant hereby petitions the Commissioner to acknowledge receipt of the following documents and place them in the file associated with the referenced application: (i) Response to the Notification of Missing Requirements mailed on March 28, 2005, and (ii) the complete set of claims submitted on September 16, 2005.

Applicant believes no fee is required for this petition. If this belief is incorrect, please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 09669/036001). If any other issues arise in connection with this petition, do not hesitate to contact the undersigned or his associates at the telephone number listed below.

Dated: January 23, 2006

Respectfully submitted,

By _____

Jonathan P. Osha
Registration No.: 33,986
OSHA · LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant

133130_1.DOC

EXHIBIT 1

Atty Docket No.: 09669/036001

Inventor: Simon Choi

Application No.: 10/507,568 **Filing Date:** September 13, 2004
Title: ACTIVATING AN IDENTITY MODULE FOR A COMMUNICATION SYSTEM

Documents Filed: JC10 Rec'd PCT/PTO 12 APR 2005

Supplemental Application Data Sheet (3 pages)

Oath or declaration of the inventor(s) (2 pages)

Power of Attorney by the Inventor (1 page)

Fee Transmittal (1 page)

Transmittal Letter to the United States Designated-Elected Office (2 pages)

Payment by credit card. Form PTO-2038 is attached (1 page)

Charge $170.00 to credit card

Via: Express Mail: Airbill No. EV523184907US
Sender's Initials: JPO/RPL/tah **Date:** April 12, 2005

Atty Docket No.: 09669/036001

Inventor: Simon Choi

Application No.: 10/507,568 **Filing Date:** September 13, 2004
Title: ACTIVATING AN IDENTITY MODULE FOR A COMMUNICATION SYSTEM

Documents Filed:

Supplemental Application Data Sheet (3 pages)

Oath or declaration of the inventor(s) (2 pages)

Power of Attorney by the Inventor (1 page)

Fee Transmittal (1 page)

Transmittal Letter to the United States Designated-Elected Office (2 pages)

Payment by credit card. Form PTO-2038 is attached (1 page)

Charge $170.00 to credit card

Via: Express Mail: Airbill No. EV523184907US
Sender's Initials: JPO/RPL/tah **Date:** April 12, 2005

EV523184907US

4/13/05

Inventor: Simon Choi **Atty Docket No.:** 09669/036001

Application No.: 10/507,568 **Filing Date:** September 13, 2004
Title: ACTIVATING AN IDENTITY MODULE FOR A COMMUNICATION SYSTEM

Documents Filed:

Supplemental Application Data Sheet (3 pages)

Oath or declaration of the inventor(s) (2 pages)

Power of Attorney by the Inventor (1 page)

Fee Transmittal (1 page)

Transmittal Letter to the United States Designated-Elected Office (2 pages)

Payment by credit card. Form PTO-2038 is attached (1 page)

Charge $170.00 to credit card

Via: Express Mail: Airbill No. EV523184907US
Sender's Initials: JPO/RPL/tah **Date:** April 12, 2005

EXHIBIT 2

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	0980
RECIPIENT ADDRESS	15712733276
DESTINATION ID	
ST. TIME	09/16 16:53
TIME USE	01'07
PAGES SENT	5
RESULT	OK

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Houston - Silicon Valley - Paris

One Houston Center • Suite 2800
1221 McKinney Street
Houston, Texas 77010
Tel: 713.228.8600
Fax: 713.228.8778

FACSIMILE TRANSMITTAL SHEET

DATE: September 16, 2005 FILE NUMBER: 09669/036001

TO: Mr. Rafael Bacares FAX NUMBER: (571) 273-3276

FROM: Robert P. Lord/gaw RPL

PAGES INCLUDING COVER: ** 5 **

RE: Application Serial No. 10/507,568

☐ URGENT ▶ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Dear Mr. Bacares:

It is my understanding from Examiner Winston Alvarado that the referenced application is in your possession at this time. As per Examiner Alvarado's request, please find attached 4 pages of claims which I ask that you attach to the file for review when the file is returned to his department.

If you have any questions, please do not hesitate to call me directly at (713) 890-1714.

OSHA • LIANG LLP
www.oshaliang.com
Houston - Silicon Valley - Paris

One Houston Center • Suite 2800
1221 McKinney Street
Houston, Texas 77010
Tel: 713.228.8600
Fax: 713.228.8778

FACSIMILE TRANSMITTAL SHEET

DATE:	September 16, 2005	FILE NUMBER:	09669/036001
TO:	Mr. Rafael Bacares	FAX NUMBER:	(571) 273-3276
FROM:	Robert P. Lord/gaw RPL		
PAGES INCLUDING COVER:	** 5 **		
RE:	Application Serial No. 10/507,568		

☐ URGENT ▶ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Dear Mr. Bacares:

It is my understanding from Examiner Winston Alvarado that the referenced application is in your possession at this time. As per Examiner Alvarado's request, please find attached 4 pages of claims which I ask that you attach to the file for review when the file is returned to his department.

If you have any questions, please do not hesitate to call me directly at (713) 890-1714.

Robert P. Lord

CONFIDENTIALITY NOTICE

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****
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****

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TX/RX NO	9978
RECIPIENT ADDRESS	7132288778
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ST. TIME	01/25 16:03
TIME USE	03'03
PGS.	32
RESULT	OK

25 APR 2006

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ALEXANDRIA, VA 22313-1450
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OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

In re Application of CHOI	:	
U.S. Application No.: 10/507,568	:	
PCT Application No.: PCT/IB03/01077	:	
Int. Filing Date: 12 March 2003	:	DECISION
Priority Date Claimed: 12 March 2002	:	
Attorney Docket No.: 09669/036001	:	
For: ACTIVATING AN IDENTITY MODULE FOR A COMMUNICATION SYSTEM	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.181" filed 25 January 2006.

BACKGROUND

On 12 March 2003, applicant filed international application PCT/IB03/01077, which claimed priority of an earlier China application filed 12 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 13 September 2004 (12 September 2004 was a Sunday).

On 13 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 28 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a proper translation of the international application into English an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 12 April 2005, applicant filed an executed declaration.

On 25 January 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the published international application reveals that the application was published in English. Furthermore, the last several pages of the publication appear to have missing subject matter due to a printing error. Whether the error occurred upon filing or during publication, applicant complied with 37 CFR 1.495(b)(1) and did not have to file a translation pursuant to 37 CFR 1.495(c)(1)(i) since the application was originally filed in English.

A review of the application file reveals that the declaration filed 12 April 2005 is present.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED AS MOOT.

The portion of the Notification of Missing Requirements Under 35 U.S.C. 371 which requires the submission of a translation is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 12 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 12 April 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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DIW Aug-07

MCDERMOTT, WILL & EMERY LLP
227 WEST MONROE STREET
SUITE 4400
CHICAGO IL 60606-5096

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application Number: 10/507570	:	DECISION ON PETITION
Filing Date: 09/10/2004	:	
Attorney Docket Number: 079036-0011	:	

This is a decision on the petition filed on 23 March, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 October, 2006, for failure to timely file a timely reply to the non-final Office action mailed on 3 July, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 12 January, 2007.

Petitioner has filed an amendment as the required reply.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is being referred to Technology Center Art Unit 1616 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#3

Gary C. Cohn PLLC
4010 Lake Washington Blvd. NE
Suite 105
Kirkland, WA 98040

In re Application of	:	
Uzawa et al.	:	
Application No.: 10/507,576	:	DECISION
PCT No.: PCT/JP03/02298	:	
Int. Filing Date: 28 February 2003	:	ON
Priority Date: 07 March 2002	:	
Attorney Docket No.: TIP 028	:	PETITION
For: Process For Producing Fine Self-Aggregates	:	

The petition to revive under 37 CFR 1.137(b) filed 10 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $920.00 was provided. The required petition fee of $1330.00 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the payment of the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i). It is noted that no fee authorization is present in the application file.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gary C. Cohn
1147 N. 4th St., Unit 6E
Philadelphia, PA 19123

11 JAN 2007

In re Application of	:	
Uzawa et al.	:	
Application No.: 10/507,576	:	DECISION
PCT No.: PCT/JP03/02298	:	
Int. Filing Date: 28 February 2003	:	ON
Priority Date: 07 March 2002	:	
Attorney Docket No.: TIP 028	:	PETITION
For: Process For Producing Fine Self-Aggregates	:	

This is with regard to "Response To Notice Of Insufficient Fees" filed on 19 October 2006.

BACKGROUND

This international application was filed on 28 February 2003, claimed an earliest priority date of 07 March 2002, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 12 September 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 07 September 2004. This international application became abandoned with respect to the national stage in the United States for failure to pay the basic national fee.

On 10 September 2004, applicants filed a petition under 37 CFR 1.137(b).

On 24 June 2005, a Decision granting the petition under 37 CFR 1.137(b) was mailed to applicants.

On 19 October 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 15 May 2006, a Notification of Insufficient Fees (Form PCT/DO/EO/923) was mailed to applicants, again requiring payment of the surcharge under 37 CFR 1.492(h) and indicating that "the oath or declaration does not comply with 37 CFR 1.63 in that it does not identify the mailing address of each inventor. If the residence is different from the mailing address, then the city and state or city and foreign country of residence of each inventor must also be given."

DISCUSSION

Petitioner urges acceptance of the declaration since the defect noted in the Form PCT/DO/EO/923 mailed on 15 May 2006 "is not understood." Review of the declaration filed on 10 September 2004 reveals that it complies with the requirements of 37 CFR 1.497(a) and (b) (it is noted that a small check mark appears next to "is attached hereto" on the first page of the declaration document, serving to identify the application which is being executed). Therefore, the declaration filed on 10 September 2004 is suitable for meeting the requirements of 35 U.S.C. 371(c)(4). It is noted that the defect identified in the Form PCT/DO/EO/923 may be cured by the filing of an appropriate Application Data Sheet pursuant to 37 CFR 1.76.

The decision on petition mailed on 24 June 2005 indicated that payment of the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i) was appropriate, but did not explicitly set a requirement for their submission; moreover, payment of the processing fee under 37 CFR 1.492(i) was not required by either the 19 October 2005 Notification of Missing Requirements or the 15 May 2006 Notification of Insufficient Fees . The surcharge under 37 CFR 1.492(h) was paid on 19 October 2006. However, the processing fee under 37 CFR 1.492(i) has not yet been paid.

CONCLUSION

The declaration filed on 10 September 2004 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

Applicants are given a **TWO (2) MONTH** period for response in which to pay the processing fee under 37 CFR 1.492(i). Extensions of time under 37 CFR 1.136(a) are available. Failure to timely reply will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration..

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gary C. Cohn
1147 N. 4th St., Unit 6E
Philadelphia, PA 19123

0 2 APR 2007

In re Application of :
Uzawa et al. :
Application No.: 10/507,576 :
PCT No.: PCT/JP03/02298 :
Int. Filing Date: 28 February 2003 : COMMUNICATION
Priority Date: 07 March 2002 :
Attorney Docket No.: TIP 028 :
For: Process For Producing Fine Self-Aggregates :

This is with regard to "Response To Decision On Petition" filed on 08 March 2007.

DISCUSSION

In a Decision mailed on 11 January 2007, it was stated that

> Petitioner urges acceptance of the declaration since the defect noted in the Form PCT/DO/EO/923 mailed on 15 May 2006 "is not understood." Review of the declaration filed on 10 September 2004 reveals that it complies with the requirements of 37 CFR 1.497(a) and (b) (it is noted that a small check mark appears next to "is attached hereto" on the first page of the declaration document, serving to identify the application which is being executed). Therefore, the declaration filed on 10 September 2004 is suitable for meeting the requirements of 35 U.S.C. 371(c)(4). It is noted that the defect identified in the Form PCT/DO/EO/923 may be cured by the filing of an appropriate Application Data Sheet pursuant to 37 CFR 1.76.
>
> The decision on petition mailed on 24 June 2005 indicated that payment of the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i) was appropriate, but did not explicitly set a requirement for their submission; moreover, payment of the processing fee under 37 CFR 1.492(i) was not required by either the 19 October 2005 Notification of Missing Requirements or the 15 May 2006 Notification of Insufficient Fees . The surcharge under 37 CFR 1.492(h) was paid on 19 October 2006. However, the processing fee under 37 CFR 1.492(i) has not yet been paid.
>
> In response, applicants have now paid the $130.00 processing fee under 37 CFR 1.492(i).

CONCLUSION

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **10 September 2004**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,576	09/10/2004	Hirotaka Uzawa	TIP 028	6724

23408 7590 04/01/2009

GARY C. COHN, PLLC
P. O. Box 313
Huntingdon Valley, PA 19006

EXAMINER	
BLAND, LAYLA D	
ART UNIT	PAPER NUMBER
1623	

NOTIFICATION DATE	DELIVERY MODE
04/01/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

garycohn@seattlepatent.com

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APR 0 1 2009

GARY C. COHN, PLLC
1147 NORTH FOURTH STREET
UNIT 6E
PHILADELPHIA, PA 19123

In re Application of:
Uzawa et al.
Serial No.: 10/507,576
Filed: September 10, 2004
Attorney Docket No.: **TIP 028**

DECISION ON PETITION
TO ACCEPT RESPONSE
AND PROCEED WITH
PROSECUTION

This is in response to applicants' petition under 37 CFR. § 1.181(a), filed on January 22, 2008, to accept as timely the attached response to the Office action that was mailed on September 20, 2007.

A review of the file history shows that the examiner mailed a restriction requirement on September 20, 2007, setting a one-month shortened statutory time period for reply.

Applicants state that the action was mailed to an incorrect address and was not received. This is evidenced by the fact that the Office action of September 20, 2007 was returned to the Office as undelivered. Thus, applicants request to accept the response and proceed with prosecution is granted. Furthermore, extensions of time fees are waived due to the fact that applicants never got the Office action of September 20, 2007.

Applicants' petition is **GRANTED**.

The application is being returned to the examiner for consideration of the election submitted on January 22, 2008.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Miroslav Flieger	: DECISION ON REQUEST FOR
Patent Number	: 7622476	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,577	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

01 MAR 2005

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#4

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J.D. Evans
CROWELL & MORING LLP
PO Box 14300
Washington, DC 20044-4300

In re Application of	:
MOLDERINGS, Gerhard et al.	: DECISION ON
US Application No.: 10/507,583	:
PCT Application No.: PCT/EP02/13429	:
Int. Filing Date: 28 November 2002	: PETITION UNDER
Priority Date: 30 November 2001	:
Attorney's File Reference: 029300.50744US	:
For: USE OF EDG-RECEPTOR AGONISTS FOR THE TREATMENT OF HYPERTENSION	: 37 CFR 1.137 (b)

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 13 September 2004 is **GRANTED**.

BACKGROUND

On 28 November 2002, applicants filed international application PCT/EP02/13429 which designated the United States. The international application claimed priority of an earlier US application filed 30 November 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 June 2003. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 30 May 2004. The application became abandoned as of midnight on 30 May 2004 for failure to pay the basic national fee.

On 13 September 2004, applicants filed the instant petition for revival accompanied by, *inter alia,* the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2) (including a Transmittal Letter, Preliminary Amendment, and Sequence Listing), an executed declaration, and the petition fee of $1330.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international

application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage. A proper reply requires payment of the basic national fee and submission of a copy of the international application, if such a copy has not already been communicated by the International Bureau

The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicants' statement in the petition that "the entire delay in submitting the requirements for entry into the U.S. National Stage was unintentional" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and thus, satisfies the requirements of 37 CFR 1.137(b)(3). If this is an incorrect interpretation in view of the rules, applicants ares required to promptly provide a statement to that effect in response to this decision. A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notice of Missing Requirements (PCT/DO/EO/905) indicating that a proper sequence listing is due.

Ula Ruddock
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

02 OCT 2006

#7

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Browdy and Neimark
624 Ninth Street N W
Washington, DC 20001

In re Application of	:	
GOULIAEV, Alex Haahr, et al.	:	
Application No.: 10/507,600	:	DECISION ON
PCT No.: PCT/DK03/00173	:	
Int. Filing Date: 14 March 2003	:	PETITION
Priority Date: 15 March 2002	:	
Docket No.: Gouliaev9	:	UNDER 37 CFR 1.181
For: A BUILDING BLOCK FORMING A C=C DOUBLE BOND UPON REACTION	:	

This decision is in response to "Petition to Vacate Erroneous Holding of Abandonment," filed in the above-captioned application on 15 June 2006.

BACKGROUND

On 14 March 2003, applicants filed international application no. PCT/DK03/00173, claiming a priority date of 15 March 2002. A copy of the international application was transmitted to the Office by the International Bureau on 25 September 2003. The thirty month deadline for payment of the basic national fee in the United States was midnight, 15 September 2004.

On 14 September 2004, applicants submitted a transmittal letter for entry into that national phase in the United States accompanied by the basic national fee.

On 25 March 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 12 June 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 15 June 2006, applicants submitted this petition under 37 CFR 1.181, accompanied by a copy of a declaration, a postcard receipt for the declaration stamped "24 May 2005" and a statement that the declaration is a copy of the one submitted to the Office.

DISCUSSION

The declaration that applicants claim to have submitted on 24 May 2005 is not present in the application. A petition to accept a copy of a what applicant claims was earlier submitted must be accompanied by a copy of the submission and proof of the earlier submission.

Applicants have provided a declaration, state that the declaration is a copy of the 24 May 2005 submission and have provided a postcard receipt date-stamped by the Office and listing the declaration. The copy of the declaration is accepted as having been received on 24 May 2005.

Applicant inquires whether a number of references are in the file. The office has more than 2 boxes of references for this application in addition to the file wrapper. With the granting of this petition, the paper application will be forwarded for scanning and the application will then be viewable electronically, as it has been associated with applicant's customer number. It would be best, considering the large number of references that applicant has submitted, for applicant to verify the contents of the application.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 June 2006 is **VACATED**.

This application is being forwarded to the National Stage processing division of the Office of PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 24 May 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/6/07

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307610 Patent No: 7169232B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Minor change not affecting scope of claims.

SPE

1625
Art Unit

19 SEP 2005

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PO Box 747
Falls Church, VA 22040-0747

In re Application of:	:	
BABA, Yoshinobu, et al.	:	
U.S. Application No.: 10/507,624	:	DECISION CORRECTING
PCT No.: PCT/JP03/02969	:	INVENTOR'S NAME
International Filing Date: 13 March 2003	:	
Priority Date: 15 March 2002	:	
Attorney's Docket No.: 1422-0643PUS1	:	
For: ELECTROPHORETIC BUFFER	:	

This decision is issued in response to applicants' "Response To Notification Of Missing Requirements" filed 10 May 2005, treated herein as a request to correct the spelling of the name of inventor Chie KUWAHARA. No petition fee is required.

BACKGROUND

On 13 March 2003, applicants filed international application PCT/JP03/02969 which claimed a priority date of 15 March 2002 and which designated the United States. On 25 September 2003, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 15 September 2004.

On 14 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration.

On 10 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration was not in compliance with 37 CFR 1.497 in that the name given for the sixth inventor on the declaration (Chie KUWAHARA) was different from the name for this inventor listed on the international application (Chie KUWABARA). The Notification also requires submission of the surharge for filing an acceptable declaration later than thirty months after the priority date.

On 10 May 2005, applicants the response to the Notification Of Missing Requirements, considered herein. The response states that the name listed on the executed declaration is correct and that the spelling of the name listed on the international application was an error.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. Here, applicants' 10 May 2005 submission states that the name of the sixth inventor was listed incorrectly on the international application and that the spelling of this inventor's name on the declaration is correct. Applicants statements are construed as a statement that the spelling error contained in the international application resulted from a typographical or transliteration error; applicants must inform this Office immediately if this is not a proper interpretation of these statements. Based on the above-stated interpretation of applicants' statements, the correct name of the sixth inventor is accepted as Chie KUWAHARA, as set forth in the declaration.

CONCLUSION

Applicants' request to correct the inventor's name is **GRANTED**.

The correct name of the sixth named inventor is accepted as Chie KUWAHARA, as set forth in the declaration filed 14 September 2004.

Based on the correction of the inventor's name, the declaration filed on 14 September 2004 is acceptable under 37 CFR 1.497. No surcharge is required.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 September 2005.

Richard M. Ross
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Office of PCT Legal Administration
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Nath & Associates PLLC
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6th Floor
Washington, DC 20005

In re Application of	:	
McKenna et al.	:	
Application No.: 10/507,626	:	
PCT No.: PCT/AU03/00189	:	
Int. Filing Date: 17 February 2003	:	DECISION
Priority Date: 15 February 2002	:	
Attorney Docket No.: 26301	:	
For: Synthetic Bottle Closure	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 24 March 2005 and the "Statement That Entire Delay In Filing Was Unintentional" filed on 14 September 2004.

BACKGROUND

This international application was filed on 17 February 2003, claimed an earlier priority date of 15 February 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 21 August 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 15 August 2004. This international application had become abandoned with respect to the national stage in the U.S. for failure to timely file the full required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee was filed on 14 September 2004.

Regarding requirement (2), the petition fee was filed on 14 September 2004.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the

international filing date of this application is later than 8 June 1995.

Review of the declaration of the inventors filed on 14 September 2004 reveals that the signed sheet is illegible. Moreover, the declaration appears to have been assembled by attaching a faxed copy of the single signed sheet to the remaining pages of the document. As such, it is not clear that the inventors signed a complete copy of the declaration document.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
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16 AUG 2005

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PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of MECONI et al	:	
U.S. Application No.: 10/507,628	:	
PCT Application No.: PCT/EP03/02521	:	
Int. Filing Date: 12 March 2003	:	
Priority Date Claimed: 16 March 2002	:	DECISION
Attorney Docket No.: 3868-1059PUS1	:	
For: HORMONE-CONTAINING	:	
TRANSDERMAL THERAPEUTIC SYSTEM	:	
WITH AN ACTIVE SUBSTANCE	:	
RESERVOIR. . . .	:	

This is in response to applicant's "Letter" filed 06 July 2005, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 12 March 2003, applicant filed international application PCT/EP03/02521, which claimed priority of an earlier Germany application filed 16 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 25 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 16 September 2004.

On 14 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

On 28 February 2005, this Office mailed a communication which identified a problem with the declaration.

On 06 July 2005, applicant filed the present request for status under 37 CFR 1.42 along with a newly executed declaration.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 06 July 2005 does not satisfy 37 CFR 1.497(b)(2) because it fails to state: the name of the legal representative, the fact that the executor is one of the legal representatives of the deceased inventor, and the citizenship of the legal representative. Applicant is advised that the declaration must also list the citizenship of the deceased inventor and that a single citizenship entry in the signature block cannot be applied to both the deceased inventor and the legal representative.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

22 NOV 2005

#9

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FALLS CHURCH, VA 22040-0747

In re Application of MECONI et al	:	
U.S. Application No.: 10/507,628	:	
PCT Application No.: PCT/EP03/02521	:	
Int. Filing Date: 12 March 2003	:	
Priority Date Claimed: 16 March 2002	:	DECISION
Attorney Docket No.: 3868-1059PUS1	:	
For: HORMONE-CONTAINING TRANSDERMAL THERAPEUTIC SYSTEM WITH AN ACTIVE SUBSTANCE RESERVOIR. . . .	:	

This is in response to applicant's "Renewed Request for Status Under 37 C.F.R. § 1.42" filed 07 October 2005.

BACKGROUND

On 12 March 2003, applicant filed international application PCT/EP03/02521, which claimed priority of an earlier Germany application filed 16 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 25 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 16 September 2004.

On 14 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

On 28 February 2005, this Office mailed a communication which identified a problem with the declaration.

On 06 July 2005, applicant filed a request for status under 37 CFR 1.42 along with a newly executed declaration.

On 16 August 2005, this Office mailed a decision dismissing the 06 July 2005 request for status.

On 07 October 2005, applicant filed the present renewed request for status under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 07 October 2005 is in compliance with 37 CFR 1.42 and 1.497.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 12 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 07 October 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

06 APR 2005

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K Street N.W.
Suite 800
Washington, DC 20006-1021

In re Application of :
NOGUCHI, Naoki *et al* :
U.S. Application No.: 10/507,645 :
PCT No.: PCT/JP02/06830 :
Int. Filing Date: 13 March 2003 : **DECISION**
Priority Date: 13 March 2002 :
Attorney's Docket No.: 2004-1423A :
For: PROCESS FOR PRODUCTION OF :
FULLERENES AND METHOD FOR :
SEPARATION THEREOF :

This decision is in response to applicants' "Correction of Spelling of Inventor Names" filed with other papers including an executed declaration on 25 March 2005.

BACKGROUND

On 25 January 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an English translation, processing fee, surcharge fee, and an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond.

On 25 March 2005, applicants filed a response which was accompanied by, *inter alia*, an English translation, the $130.00 processing fee, the $130.00 surcharge fee, an executed declaration and a document titled "Correction of Spelling of Inventor Names."

DISCUSSION

In the response filed 25 March 2005, applicants included an executed declaration listing the first name of the second listed inventor as "Haruki" instead of the name recorded on the international publication, "Haruo." The declaration also recorded the surname of the third listed inventor as "Saita" instead of "Saida."

Counsel states that "[t]he PCT documents misspell the names of two of the inventors" in the response. This explanation is not sufficient.

Applicants must submit a petition to either correct the inventors' names pursuant to 37 CFR 1.182, or claim a typographical or transliteration error. *See* MPEP § 201.03.

CONCLUSION

Since the difference in the spelling of the two inventors' names is not yet resolved, the declaration filed 25 March 2005 is not in compliance with 37 CFR 1.497(a) and (b).

Applicants must provide a grantable petition under 37 CFR 1.182 to correct the names of the inventors, or submit an adequate explanation of the discrepancy in the names within **ONE (1) MONTH** from the mail date of this communication, or any time remaining in the Form PCT/DO/EO/905 mailed 25 January 2005, whichever is longer. Failure to submit the required reply in the time allotted will result in the **ABANDONMENT** of this application.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

10 JUN 2005

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Washington, DC 20006-1021

In re Application of :
NOGUCHI, Naoki *et al* :
U.S. Application No.: 10/507,645 :
PCT No.: PCT/JP02/06830 :
Int. Filing Date: 13 March 2003 : **DECISION**
Priority Date: 13 March 2002 :
Attorney's Docket No.: 2004-1423A :
For: PROCESS FOR PRODUCTION OF :
FULLERENES AND METHOD FOR :
SEPARATION THEREOF :

This decision is in response to applicants' "Response to Decision" filed 29 April 2005. No fee is required.

BACKGROUND

On 25 March 2005, applicants filed an executed declaration listing the first name of the second inventor and the surname of the third inventor differently than recorded on the international publication. Applicants indicated that the international application had misspelled the names of the two inventors and the declaration was correct.

On 06 April 2005, a decision informing applicants that the statement above was not sufficient and directed applicants to file a petition to correct the inventors' names pursuant to 37 CFR 1.182, or claim a typographical or transliteration error.

On 29 April 2005, applicant submitted the instant response.

DISCUSSION

In the response filed 29 April 2005, applicants' declare that "the errors in naming the second and third inventors as Haruo ASATANI and Soichiro SAIDA (as recorded on the international publication, i.e. WO 03/076335) are transliteration errors."

Section 201.03 of the MPEP discusses these types of errors and states, in part:

> Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration.

Applicants' explanation meets the requirements of the MPEP and is sufficient to explain the name difference between the declaration and the international publication.

CONCLUSION

For the reasons discussed above, the declaration filed 25 March 2005 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 13 March 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 March 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

11 JUN 2007

INTELLECTUAL PROPERTY LAW OFFICES
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL CA 95008

In re Application of	:	
Lim Cheong Kee	:	
Application No.: 10/507,656	:	
PCT No.: PCT/SG02/00088	:	
Int. Filing Date: 14 May 2002	:	DECISION
Priority Date: 11 March 2002	:	
Attorney Docket No.: 60637.300101	:	
For: An Enterprise Knowledge And Information Acquisition, Management And Communications System With Intelligent User Interfaces	:	

This is with regard to the "Second Request For Reconsideration Of Decision..." filed on 16 April 2007.

DISCUSSION

In a Decision mailed on 02 March 2007, the correspondence filed on 04 January 2007 was treated as a renewed petition to withdraw the holding of abandonment, and was dismissed without prejudice because

> In response, petitioner states that "Applicant has not seen a copy of the notice of missing parts referred to in the Notice of Abandonment... IPLO, acting through both the responsible attorney and staff members, has diligently searched the files and mailing records and confirms that no evidence exists that such a document was ever received by IPLO." However, it is not clear whether counsel is making the statement on the basis of first-hand knowledge - that is, whether he himself conducted the review of the docket records and application file or whether some or all of the review was performed by other "staff members" who have not provided statements.
>
> With regard to the "docket record" requirement, counsel has provided "a Calendar Report showing other matters calendered for 16 April 2005 (3 matters in this case)." Inspection of this record reveals that no response to the Notification of Missing Requirements mailed on 14 February 2005 was docketed/scheduled for 16 April 2005. However, further review reveals that the reply was due on 14 April 2005, rather than 16 April 2005. A telephone call was made to Atty. Hughes to request a similar docket record pertaining to 14 April 2005 (rather than the 16 April 2006 record submitted with the renewed petition) on 05 January 2007, but no supplemental paper including such a record has been received as of 02 March 2007. In the absence of appropriate docket records pertaining to the correct due date for the reply (i.e., 14 April 2005), it would not be appropriate to conclude that requirement (3) has been satisfied at this time.

In response, petitioner now states that "A diligent search of the file records and mail records show no receipt of such a document," that "IPLO, acting through both the responsible attorney (Applicant's counsel) and staff members, has diligently searched the files and mailing records and confirms that no evidence exists that such a document was ever received by IPLO," and that "the undersigned personally searched and also that staff members searched for the document." In view of these statements, it would now be appropriate to conclude that requirement (2) has been satisfied.

With regard to requirement (3), petitioner has now provided appropriate docket records showing cases docketed for response on 14 April 2005. These records are satisfactory.

CONCLUSION

The petition is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed on 29 June 2006 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

George Dombroske
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15 NOV 2006

INTELLECTUAL PROPERTY LAW OFFICES
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CAMPBELL CA 95008

In re Application of :
Lim Cheong Kee :
Application No.: 10/507,656 :
PCT No.: PCT/SG02/00088 :
Int. Filing Date: 14 May 2002 : DECISION
Priority Date: 11 March 2002 :
Attorney Docket No.: 60637.300101 :
For: An Enterprise Knowledge And Information :
Acquisition, Management And Communications :
System With Intelligent User Interfaces :

This is with regard to the "Request To Revive Application" filed on 11 July 2006, a copy of which was filed on 07 September 2006.

BACKGROUND

This international application was filed on 14 May 2002, designated the United States, and claimed an earliest priority date of 11 March 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 31 December 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 11 September 2004. Applicants timely filed *inter alia* the basic national fee on 10 September 2004.

On 14 February 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 29 June 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 14 February 2005.

DISCUSSION

Petitioner requests revival of this international application with respect to the national stage in the United States, on the basis of alleged non-receipt of the Notification of Missing Requirements mailed on 14 February 2005. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971)*, an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement).

Petitioner states that "on February 14, 2005 a Request to File Missing Parts was mailed to our office. However, it was never received by us." This statement, which is taken to refer to the Form PCT/DO/EO/905 mailed on 14 February 2005, satisfies requirement (1).

Regarding requirement (2), the petition does not explicitly state that a search of the file jacket and docket records was conducted, and that said search indicates that the Notification of Missing Requirements was not received. Therefore, requirement (2) has not been satisfied.

Concerning requirement (3), counsel has provided a copy of a "Calendar Report" for the attorney docket number corresponding to this application, and has characterized it as a "copy of all docketed items for this application." However, the required docket records are those records showing all cases for which a response was required to be filed on the same date that the response to the Notification of Missing Requirements would have been due had it been received by petitioner - that is, records showing all cases docketed for response on 16 April 2005 (since 14 April 2005 was a Saturday). Since no such records have been furnished, it would not be appropriate to conclude that requirement (3) has been satisfied.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

Commissioner for Patents
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02 MAR 2007

INTELLECTUAL PROPERTY LAW OFFICES
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL CA 95008

In re Application of :
Lim Cheong Kee :
Application No.: 10/507,656 :
PCT No.: PCT/SG02/00088 :
Int. Filing Date: 14 May 2002 : DECISION
Priority Date: 11 March 2002 :
Attorney Docket No.: 60637.300101 :
For: An Enterprise Knowledge And Information :
Acquisition, Management And Communications :
System With Intelligent User Interfaces :

This is with regard to the "Request For Reconsideration Of Decision..." filed on 04 January 2007.

DISCUSSION

Petitioner requests revival of this international application with respect to the national stage in the United States, on the basis of alleged non-receipt of the Notification of Missing Requirements mailed on 14 February 2005. As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971)*, an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement).

In a decision mailed on 15 November 2006, the petition filed on11 July 2006 (a copy of which was filed on 07 September 2006) was dismissed without prejudice because

> Regarding requirement (2), the petition does not explicitly state that a search of the file jacket and docket records was conducted, and that said search indicates that the Notification of Missing Requirements was not received. Therefore, requirement (2) has not been satisfied.
>
> Concerning requirement (3), counsel has provided a copy of a "Calendar Report" for the attorney docket number corresponding to this application, and has characterized it as a "copy of all docketed items for this application." However, the required docket records are those records showing all cases for which a response was required to be filed on the same date that the response to the Notification of Missing Requirements would have been due had it been received by petitioner - that is, records showing all cases docketed for response on 16 April 2005 (since 14 April 2005 was a Saturday). Since no such records have been furnished, it would not be appropriate to conclude that requirement (3) has been satisfied.

In response, petitioner states that "Applicant has not seen a copy of the notice of missing parts referred to in the Notice of Abandonment... IPLO, acting through both the responsible attorney and staff members, has diligently searched the files and mailing records and confirms that no evidence exists that such a document was ever received by IPLO." However, it is not clear whether counsel is making the statement on the basis of first-hand knowledge - that is, whether he himself conducted the review of the docket records and application file or whether some or all of the review was performed by other "staff members" who have not provided statements.

With regard to the "docket record" requirement, counsel has provided "a Calendar Report showing other matters calendered for 16 April 2005 (3 matters in this case)." Inspection of this record reveals that no response to the Notification of Missing Requirements mailed on 14 February 2005 was docketed/scheduled for 16 April 2005. However, further review reveals that the reply was due on 14 April 2005, rather than 16 April 2005. A telephone call was made to Atty. Hughes to request a similar docket record pertaining to 14 April 2005 (rather than the 16 April 2006 record submitted with the renewed petition) on 05 January 2007, but no supplemental paper including such a record has been received as of 02 March 2007. In the absence of appropriate docket records pertaining to the correct due date for the reply (i.e., 14 April 2005), it would not be appropriate to conclude that requirement (3) has been satisfied at this time.

Counsel's indications that no copy of the Notification of Missing Requirements has been received are acknowledged. Accordingly, a copy of said Notification is attached hereto.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
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enc.: copy of Form PCT/DO/EO/905 mailed 14 February 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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28 SEP 2006

Armstrong, Kratz, Quintos, Hanson & Brooks, LLP
Intellectual Property Law Offices
502 Washington Ave., Suite 220
Towson, MD 21204

In re Application of :
HAZAN et al :
Application No.: 10/507,676 :
PCT No.: PCT/EP03/00288 :
Int. Filing Date: 14 January 2003 : DECISION
Priority Date: 15 March 2002 :
Atty. Docket No.: 04728-PCT-PA :
For: CUT-RESISTANT AND :
CUT-WARNING FABRIC :

This is a decision is in response to applicants' "PETITION UNDER 37 C.F.R. 1.182" filed in the U.S. Patent and Trademark Office (USPTO) on 16 MAY 2006, and applicants' earlier request that the application be accepted without the signature of one of the joint inventors, Luc De Meyer, on the grounds that he refuses to execute the application. The earlier request has been treated as a petition under 1.47(a). The petitions are **GRANTED** as discussed below.

BACKGROUND

On 14 January 2003, applicants filed international application No. PCT/EP03/00288 which claimed a priority date of 15 March 2002, and which designated the United States.

The deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was set to expire 30 months from the priority date, i.e. 15 September 2004.

On 14 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: a declaration of the inventors and the basic national fee. The transmittal letter identified the papers as the national stage filing of International Application No. PCT/EP02/02926.

On 15 October 2004, applicants filed a corrected transmittal letter which identified International Application No. PCT/EP03/00288.

On 01 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was not in compliance with 37 CFR 1.497 and that a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 25 August 2005, applicants filed a "RESPONSE" requesting that the application be accepted without the signature of inventor De Meyer.

On 17 March 2006, this Office mailed a NOTIFICATION indicating that a petition under 37 CFR 1.182 was required for acceptance of the application as a national stage filing of International Application No. PCT/EP03/00288. The NOTIFICATION indicated that a decision under 1.47(a) was being held in abeyance pending the filing of an acceptable petition under 37 CFR 1.182. The NOTIFICATION did note that the declaration of the inventors was illegible and that the requisite petition fee for consideration of the petition under 1.47(a) had not been submitted.

On 16 May 2006, applicants filed the present response which was accompanied by, *inter alia*, a petition and fee under 37 CFR 1.182, the requisite petition fee under 37 CFR 1.47, and a legible copy of the declaration of the inventors.

DISCUSSION

37 CFR 1.182

A review of the application file reveals that with the filing of the present petition, the application may be accepted as the national stage filing of International Application No. PCT/EP03/00288.

37 CFR 1.47(a)

A review of the application file reveals that with the filing of the requisite petition fee and legible declaration of the inventors, the requirements of 37 CFR 1.47(a) have now been satisfied.

A further review of the application file reveals that the requirements for entry into the national stage in the U.S. under 35 U.S.C. 371 have also now been satisfied.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 25 August 2005, and a notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application has an international filing date of **14 January 2003**, under 35 U.S.C. 363 and a date of **16 May 2006**, under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

/Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

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28 SEP 2006

Luc De Meyer
Acacialaan 15
1910 Kampenhout
Belgium

In re Application of	:	
HAZAN et al	:	
Application No.: 10/507,676	:	
PCT No.: PCT/EP03/00288	:	
Int. Filing Date: 14 January 2003	:	DECISION
Priority Date: 15 March 2002	:	
Atty. Docket No.: 04728-PCT-PA	:	
For: CUT-RESISTANT AND CUT-WARNING FABRIC	:	

Dear Mr. De Meyer:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Joe Liebeschuetz
Townsend and Townsend and Crew
Two Embarcadero Center
8th Floor
San Francisco, CA 94111

Mail Date: 04/21/2010

Applicant	: Martin Maurer	: DECISION ON REQUEST FOR
Patent Number	: 7575857	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,710	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **343** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

30 MAR 2005
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Richard J. Minnich
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Seventh Floor
1100 Superior Avenue
Cleveland, OH 44114

In re Application of :
HAM, Nobuharu :
U.S. Application No.:10/507,714 :
PCT No.: PCT/JP03/02875 : COMMUNICATION
International Filing Date: 11 March 2003 :
Priority Date: 12 March 2002 :
Attorney's Docket No.: TOMI 200006 :
For: MULTICOLOR LIGHT EMITTING TRACK BALL :

This application is before the Office Of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 11 March 2003, applicant filed international application PCT/JP03/02875 which claimed a priority date of 12 March 2002 and which designated the United States. On 18 September 2003, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 13 September 2004 (12 September 2004 was a Sunday).

On 13 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee. The submission did not include an oath or declaration executed by the inventor.

On 10 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) that identified 13 September 2004 as the 35 U.S.C. 371 date and a filing receipt.

DISCUSSION

A review of the application file reveals that the Notification Of Acceptance and filing receipt mailed 10 March 2005 were issued in error, prior to applicant's completion of the 35 U.S.C. 371 requirements. Specifically, applicant has not yet submitted and oath or declaration in

compliance with 35 U.S.C. 371(c)(4) and 37 CFR 1.497.[1] Accordingly, the Notification Of Acceptance and filing receipt mailed 10 March 2005 are appropriately vacated.

CONCLUSION

The Notification Of Acceptance and filing receipt mailed 10 March 2005 are hereby **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to continue processing of this application in accordance with this decision by mailing a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

[1] The international application here contained an inventor's declaration filed under PCT Rule 4.17(iv). However, this declaration is defective in that the name and address thereon were not translated into English. See PCT Rule 4.16.

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Israel Blum
Morgan & Finnegan
3 World Financial Center
New York NY 10281-2101

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application :
Taylor :
Application No. 10/507,715 : PATENT TERM ADJUSTMENT
Filed: September 14, 2004 :
Dkt. No.: 6009-4719 :

This is in response to the "STATEMENT REGARDING PATENT TERM ADJUSTMENT UNDER WYETH V. DUDAS," filed November 14, 2008. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(b). The application was timely filed along with the issue fee payment on November 14, 2008.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed September 8, 2008. Applicant argues that the application is entitled to an additional adjustment of 46 days pursuant to 35 USC 154(b)(1)(B) and 37 CFR 1.702(b).

Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The required application fee of $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's deposit account, as authorized.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHURCH STREET STATION
NEW YORK, NY 10008-0770

MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of :
David John Buchanan Taylor :
Application No.: 10/507,715 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No.: 01115/0211554-US0 :

This is a decision on the petition, filed April 15, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 14, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1797 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment of the application.*

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Brinks Hofer Gilson & Lione
P O Box 10395
Chicago, IL 60610

Mail Date: 04/21/2010

Applicant	: Naoaki Fukuda	: DECISION ON REQUEST FOR
Patent Number	: 7605345	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,718	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **903** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

15 APR 2005

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OBLON, SPIVAK, McCLLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of:	:	
FERREIRA VIEIRA LEITE, Antonio, Augusto	:	DECISION ON PETITION TO
U.S. Application No.: 10/507,724	:	REVIVE ABANDONED
PCT No.: PCT/PT03/00001	:	APPLICATION UNDER 37
International Filing Date: 25 February 2003	:	CFR 1.137(b)
Priority Date: 04 March 2002	:	
Attorney's Docket No.: 258807US6PCT	:	
For: SAFETY LOCK FOR GLASS DOORS	:	

The petition to revive under 37 CFR 1.137(b) filed 15 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE, CA 95131

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of :
Jan Baptist Adrianus Maria Norsten, et al. :
Application No. 10/507,730 : ON PETITION
Filed: April 14, 2005 :
Attorney Docket No. NL02.1038 US :

This is a decision on the petition under 37 CFR 1.313(a), filed October 19, 2007, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of an IDS filed on October 19, 2007.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been charged to petitioner's deposit account.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an IDS with the petition does not make withdrawal of the application from issue necessary. There are other avenues open to applicant to have an IDS considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

Petitioner is advised that, unless he has in hand a decision or action by the Office withdrawing this application from issue, the issue and publication fees must be paid on or before the due date to avoid abandonment of the application.

Furthermore there is no indication that the person signing the petition was ever given power to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03.

Any inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This matter is being referred to Technology Center AU 2872 for appropriate action on the IDS filed October 19, 2007.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON VA 22203

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Sylvain Arnould, et al. :
Application No. 10/507,736 : DECISION ON PETITION
Filed: July 27, 2005 : TO WITHDRAW
Attorney Docket No. BJS-4413-7 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by B. J. Sadoff on behalf of all attorneys of record who are associated with customer No. 23117. All attorneys/agents associated with the Customer Number 23117 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Sylvain Arnould at the address indicated below.

There is an outstanding Office action mailed August 1, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: SYLVAIN ARNOULD
7 RUE AUBERT
93200 SAINT DENIS FRANCE

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10 POST OFFICE ROAD - SUITE 110
SILVER SPRING MD 20910

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of
Ilkka Suorsa et al.
Application No. 10/507,762
Filed: March 3, 2005
Attorney Docket No.: **5499**

ON PETITION

This is a decision on the petition filed October 5, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 5, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 8, 2007. Accordingly, a Notice of Abandonment was mailed April 18, 2007.

This matter is being referred to Technology Center 2855 for appropriate action on the amendment filed October 5, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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DAVID W. HIGHET, VP & CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
(HOFFMAN & BARON)
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of
Seiichi Hato
Application No. 10/507,767
Filed: March 24, 2005
Attorney Docket No: 102-571 PCT/US/RCE

ON PETITION

This is a decision on the petition filed June 2, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 16, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned June 17, 2009. Accordingly, a Notice of Abandonment was mailed October 1, 2009.

This matter is being referred to Technology Center 3767 for appropriate action on the amendment filed June 2, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-26-09

TO SPE OF : ART UNIT 2121

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/507777 Patent No.: 6970764

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved as requested

SPE Art Unit 2121 9/23/09

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Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

Mail Date: 04/21/2010

Applicant	: Kristof Van Emelen	: DECISION ON REQUEST FOR
Patent Number	: 7615553	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **940** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

In re Application of :
Green et al. :
Application No. 10/507,786 : ON APPLICATION FOR
Filed: September 13, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. AM-100935USA :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b) filed on December 17, 2008.[1] Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred fifty-six (756) days, not five hundred seventy-one (571) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

[1] Receipt is acknowledged of the Request for Deferral of Reconsideration of Patent Term Adjustment Under 37 CFR § 1.705(b), filed on July 7, 2009. Applicants request that a decision on the petition be deferred at this time. The petition, however, is premature, and is dismissed therefor.

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Bruce A. Green	: DECISION ON REQUEST FOR
Patent Number	: 7615229	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **958** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/507,819 : DECISION ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. LEE=99 :

This is a decision on the petition, filed January 4, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed June 6, 2007, which set a one (1) month or thirty day (whichever was longer) period for reply. A Notice of Abandonment was mailed on March 24, 2008.

Petitioner asserts that the Office action dated June 6, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As petitioner has already filed an amendment in response to the June 6, 2007 Notice, it is unnecessary to re-mail the Office action. This application is being referred to Technology Center Art Unit 1722 for consideration of the January 15, 2008 amendment, which addresses the June 6, 2007 Notice.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

04 APR 2006

#4

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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

In re Application of	:	
FARIA, Richard	:	
Application No.: 10/507,830	:	DECISION ON
PCT No.: PCT/GB03/01085	:	
Int. Filing Date: 14 March 2003	:	PETITION UNDER
Priority Date: 14 March 2002	:	
Attorney Docket No.: 22557-3006	:	37 CFR 1.47(b)
For: IMPROVEMENTS TO SECURITY IN DIGITAL DATA DISTRIBUTION	:	

This is a decision on applicant's "Petition Under 37 C.F.R. §1.47(b)," filed in the United States Patent and Trademark Office (USPTO) on 17 October 2005.

BACKGROUND

On 14 March 2003, applicant filed international application PCT/GB03/01085, claiming a priority date of 14 March 2002. A copy of the international application was transmitted to the Office on 17 October 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 September 2004.

On 14 September 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 16 June 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 October 2005, applicant submitted a petition under 37 CFR 1.47(b) accompanied by the fee for a two month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), (4) and (6) have been met. (1) The $200 petition fee will be charged to the deposit account as authorized. (3) Applicant states the last known mailing address of Mr. Faria as Bury Farm House, Pegsdon, Hitchen, Herts SG5 3LA, United Kingdom. (4) The declaration complies with 37 CFR

1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant claims that Mr. Hintzen has refused to execute the declaration, but have not provided proof that Mr. Hintzen was presented with a complete copy of the application papers and has refused to sign. Mr. Ahmad does not indicate first hand knowledge of the presentation of the application papers, including the declaration to the inventor. The letter of Ms. Edwards does not indicate that the application was included with the papers forwarded to the inventor. Copies of documentary evidence indicating that the inventor received a complete copy of the application papers should be included. Additionally, the letter of Ms. Edwards is addressed to "Ricky Adar," not Richard Faria. An explanation of the two names beyond the conclusory statement that the inventor is "also known as Ricky Adar" is required.

Item (5) has not been met. Applicant has not provided evidence of proprietary interest in the application. Applicant has not provided an assignment or a work agreement in which the inventor agreed to assign the invention to applicant. Mr. Harper cannot sign the assignment on behalf on Mr. Faria. The statements of Mr. Ahmad and Mr. Harper are conclusory as to the ownership of the invention. The declaration of Mr. Ahmad is not sufficient to constitute a legal memorandum as described in MPEP 409.03(f). Mr. Harper does not indicate that he is an attorney.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

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#6

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16 OCT 2006

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

In re Application of	:	
FARIA, Richard	:	
Application No.: 10/507,830	:	DECISION ON
PCT No.: PCT/GB03/01085	:	
Int. Filing Date: 14 March 2003	:	PETITION UNDER
Priority Date: 14 March 2002	:	
Attorney Docket No.: 22557-3006	:	37 CFR 1.47(b)
For: IMPROVEMENTS TO SECURITY IN DIGITAL DATA DISTRIBUTION	:	

This is a decision on applicant's "Petition Under 37 C.F.R. 1.47(B)," filed in the United States Patent and Trademark Office (USPTO) on 11 August 2006.

BACKGROUND

On 04 April 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 11 August 2006, applicant filed the instant renewed petition. The fee for a three month extension of time will be charged to deposit account no. 50-1901, as authorized.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), (4) and (6) were previously satisfied. (1) The $200 petition fee will be charged to the deposit account as authorized. (3) Applicant states the last known mailing address of Mr. Faria as Bury Farm House, Pegsdon, Hitchen, Herts SG5 3LA, United Kingdom. (4) The declaration complies with 37 CFR 1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has now been satisfied. Applicant has provided a copy of the application papers and declaration to the applicant and documentary evidence of the presentation.

Item (5) has not been satisfied. Applicant has provided a legal memorandum by Mr. Ahmad, a British patent attorney and provided supporting declarations setting out the necessary facts establishing the proprietary interest of Cerberus Central Limited in the above application. However, the declaration

under 37 CFR 1.497(a)-(b) is signed by Randall Harper as Executive Vice President of Virtual Music Stores Limited (VMS), "acquirer of Cerberus Central Limited". Applicant has not established the ownership of Cerberus by VMS. Applicant has left a missing link in the chain of title.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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#8

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12 JAN 2007

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

In re Application of	:	
FARIA, Richard	:	
Application No.: 10/507,830	:	DECISION ON
PCT No.: PCT/GB03/01085	:	
Int. Filing Date: 14 March 2003	:	PETITION UNDER
Priority Date: 14 March 2002	:	
Attorney Docket No.: 22557-3006	:	37 CFR 1.47(b)
For: IMPROVEMENTS RELATING TO SECURITY IN DIGITAL DATA DISTRIBUTION	:	

This is a decision on applicant's "Second Renewed Petition Under 37 C.F.R. 1.47(B)," filed in the United States Patent and Trademark Office (USPTO) on 22 December 2006.

BACKGROUND

On 16 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 22 December 2006, applicant filed this renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) were previously satisfied. Applicant states the last known mailing address of Mr. Faria as Bury Farm House, Pegsdon, Hitchen, Herts SG5 3LA, United Kingdom.

Item (5) has been satisfied.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **22 December 2006**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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12 JAN 2007

Richard Faria
Bury Farm House, Pegsdon
Hitchen, Herts SG5 3LA
United Kingdom

In re Application of
FARIA, Richard
Application No.: 10/507,830
PCT No.: PCT/GB03/01085
Int. Filing Date: 14 March 2003
Priority Date: 14 March 2002
Attorney Docket No.: 22557-3006
For: IMPROVEMENTS RELATING TO SECURITY IN DIGITAL DATA DISTRIBUTION

Dear Mr. Faria:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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D. Douglas Price
Steptoe & Johnson, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

In re Application of :
LAMBERT, et al. :
Application No.: 10/507,857 : DECISION ON PETITION
PCT No.: PCT/IB03/01336 :
Int. Filing Date: 28 February 2003 : UNDER 37 CFR 1.181
Priority Date: 01 March 2002 :
Attorney Docket No.: 14621.0003 :
For: SELF EMULSIFYING DRUG DELIVERY :
SYSTEM FOR POORLY SOLUBLE DRUGS :

This decision is in response to applicant's correspondence filed 21 June 2005 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 28 February 2003, applicant filed international application PCT/IB03/01336, which claimed priority of an earlier application filed 01 March 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 September 2004.

On 15 September 2004, a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed declaration of the inventors; a preliminary amendment was received in the Office of Initial Patent Examination at the USPTO for National stage processing.

On 16 June 2005, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that the above-identified application was abandoned as to the United States for failure to provide payment of the full, U.S. Basic National Fee prior to expiration of the thirty months from the priority date.

On 21 June 2005, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment.

DISCUSSION

A review of applicant's exhibits, as well as the transmittal letter, shows that the National stage papers were filed at the USPTO on 31 August 2004. The messenger who filed the papers apparently filed the papers at the Trademark customer service window instead of the Patent's customer service window thus causing the delay in processing the papers. However, as the Trademark customer service window is a valid filing area for the USPTO, the papers are considered timely filed on 31 August 2004.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 31 August 2004.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment mailed 16 June 2005 is hereby **VACATED**.

This application will be given an international application filing date of 28 February 2003 and a date of **31 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
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31 MAY 2005

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Burns, Doane, Swecker & Mathis, L.L.P.
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Alexandria, Virginia 22313-1404

In re Application of	:	DECISION ON
WALKER, Christopher	:	
Application No.: 10/507,911	:	
PCT No.: PCT/GB03/00486	:	
Int. Filing Date: 04 February 2003	:	PETITION UNDER
Priority Date: 21 February 2002	:	
Attorney's Docket No.: 015291-158	:	
For: RESILIENT BRACE	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition Under 37 CFR 1.137(b)," filed on 16 September 2004.

BACKGROUND

On 04 February 2003, this international application was filed, claiming an earliest priority date of 21 February 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 21 August 2004.

On 16 September 2004, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. However, no executed declaration was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
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APR 28 20093 APR 28 2009

Jerry Hefner
KNOBBE, MARENS, OLSON & BEAR, LLP
2040 MAIN STREET
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IRVINE, CA 92614

In re Application of :
SZPIRER ET AL. :Decision on Petition
Serial No.: 10/507,923 :
Filed : July 19, 2005 :
Attorney Docket No.: VANM290.001APC :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on June 10, 2008 requesting review of a lack of unity determination. The decision mailed on 30 March 2009 is vacated because it contained 3 pages that did not belong in the decision.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/BE03/00045 and as such, is eligible for unity of invention practice.

In a written lack of unity determination mailed March 29, 2007, the examiner divided claims 15-33 into three groups as follows:

> Group I, claims 15-24, and 26-28, drawn to a recombinant cell or organism having incorporated into the genome i) a genetic construct a nucleotide sequence encoding a toxic molecule and ii) a genetic sequence encoding an antidote molecule to said toxic molecule.
>
> Group II, claims 15-28, drawn to a recombinant cell or organism having incorporated into the genome i) a genetic construct a nucleotide sequence encoding a toxic molecule, ii) a genetic sequence encoding an antidote molecule to said toxic molecule and iii) a genetic sequence which is the target of the toxic molecule.

Group III, claims 29-33 drawn to a method of producing and selecting a genetically modified cell or organism.

The examiner then requested that applicants select particular species depending on which group was selected. The examiner provided a prior art reference to support this determination for lack of unity.

On September 24, 2007, applicants elected Group I without traverse, claims 15-24, 26-28, and "does not comprise a selectable marker," "wherein the genetic sequence encoding the antidote is not added to the construct," "ccdB," "yeast cell," "an exogenous compound," "chloroplast," and "two different toxic genes" all with traverse.

In the first Office action of the merits mailed December 12, 2007, the examiner considered the traversal and made the unity of invention determination FINAL. Claims 15, 16, 18, 22-24, 26-27, 35 were examined. Claims 15-16, 18, 22-24, 26-27, 35 were rejected under 35 USC 101, 35 USC 112/1st paragraph written description, 35 USC 112/1st paragraph enablement, 35 USC 112/2nd paragraph, 35 USC 102(a), 35 USC 102(e) and 35 USC 103(a).

A response to the Office action was filed on June 10, 2008 which included amendments to the claims, a response and this petition requesting reconsideration under 37 C.F.R 1.144 of the lack of unity requirement.

DISCUSSION

Applicants' petition filed June 10, 2008 and the file history have been considered carefully. Applicants traverse the restriction of the non-elected embodiments of the invention and request rejoinder of withdrawn dependent claims 34-40.

At the onset, a few irregularities are noted in the original lack of unity of invention determination.

In this application, the examiner determined that unity of invention was lacking determination between Group I and II as follows:

Group I, claims 15-24, and 26-28, drawn to a recombinant cell or organism having incorporated into the genome i) a genetic construct a nucleotide sequence encoding a toxic molecule and ii) a genetic sequence encoding an antidote molecule to said toxic molecule.

Group II, claims 15-28, drawn to a recombinant cell or organism having incorporated into the genome i) a genetic construct a nucleotide sequence encoding a toxic molecule, ii) a genetic sequence encoding an antidote molecule to said toxic molecule and iii) a genetic sequence which is the target of the toxic molecule.

As set forth in the PCT International search and preliminary examination guidelines, paragraph 10.03 provides that

> Lack of unity of invention may be directly evident "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. For example, independent claims to A + X, A + Y, X + Y can be said to lack unity *a priori* as there is no subject matter common to all claims.

Group I can be characterized as A + X. Group II can be characterized as A + X + Y. In this claim set, there is no claim corresponding to A + Z, for example, which would permit a lack of unity determination a priori. Moreover, while Group II requires the technical feature of "Y" which is not required for Group I, there is nothing required by Group I which is also not encompassed by Group II. Group I and Group II both require a common technical feature of "a recombinant cell or organism having incorporated into the genome i) a genetic construct a nucleotide sequence encoding a toxic molecule and ii) a genetic sequence encoding an antidote molecule to said toxic molecule." As such, unity of invention is present between Group I and Group II.

Concerning the election of species requirements, it is noted that several of the requirements did not set forth clearly delineated species amongst which to elect and that the rationale for requiring the election of species did not use the appropriate form paragraph.

The requirement to "elect one of the alternative genetic constructs in claim 15(i) that does not does not comprise a selectable marker" is problematic. The examiner characterized the election as "wherein the genetic construct does not comprise a selectable marker as recited in claim 15(i). Such a negative limitation does not appear in claim 15(i). Moreover, Claim 15(i) does not recite a list of alternative genetic constructs. Claim 15(i) is generic to genetic constructs. For this reason, the election of species requirement to elect a construct that does not does not comprise a selectable marker is improper.

For similar reasons, the requirement to "elect one of the alternative constructs of claim 15(ii) wherein the construct that encodes an antidote" is improper.

Applicant was required to elect a biological organism from the groups of organism of plant, animal, mammal, insect or yeast. Because insects and mammals are both subsets of the genus of animals, this election of species requirement is improper and has been reformatted as a requirement to elect a plant, animal or yeast.

The following election of species requirements are maintained for the following reasons:

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The requirement to elect one of the toxic molecules as set forth in original claim 18.

The requirement to elect one of genetic sequences that is the target of the toxic molecule as set forth in original claim 25.

The requirement to elect between an exogenous compound or a compound which is synthesized by the host cell of original claim 24.

The requirement to elect one of the host cell compartments as set forth in original claims 26-27.

The requirement to elect whether the selectable marker is bordered by two different or identical toxic genes as set forth in original claims 28.

Within each group of species listed above, the species do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the species lack unity of invention because even though the inventions of these groups require the technical feature of "recombinant cell or organism having incorporated into the genome i) a genetic construct a nucleotide sequence encoding a toxic molecule and ii) a genetic sequence encoding an antidote molecule to said toxic molecule" this technical feature is not a special technical feature as it does not make a contribution over the prior art in view of the prior art rejections of record.

Turning now to the merits of the petition, applicants argue that all the groups require a technical feature that makes a contribution over the art. This position is not persuasive in view of the outstanding prior art rejections on the elected invention.

Rejoinder Opportunities:

The examiner has restricted between product (Group I/II) and process (Group III) and has required an election of species in this national stage filing of a PCT. It is noted that in both of these situations, rejoinder practice applies. See MPEP 1893.03(d) states in part:

> If an examiner (1) determines that the claims lack unity of invention and (2) requires election of a single invention, when all of the claims drawn to the elected invention are allowable (i.e., meet the requirements of 35 U.S.C. 101, 102, 103 and 112), the nonelected invention(s) should be considered for rejoinder. Any nonelected product claim that requires all the limitations of an allowable product claim, and any nonelected process claim that requires all the limitations of an allowable process claim, should be rejoined. See MPEP § 821.04. Any nonelected processes of making and/or using an allowable product should be considered for rejoinder. The examiner should notify applicants of potential rejoinder of non-elected process claims by placing form paragraph 8.21.04 at the end of any lack of unity determination made between a product and a process of making the product or between a product and a process of using the product.

At this time, there is no special technical feature which makes a contribution over the prior art to link Groups (I and II) with Group III. Moreover the generic claims that encompass the species

are not yet in condition for allowance. For these reasons, it is premature to consider rejoinder of the method of Group III or the examination of additional species.

DECISION

Accordingly, the petition filed under 37 CFR 1.144 is **GRANTED-IN-PART**.

The restriction requirement is withdrawn between elected Group I and non-elected Group II.

The restriction requirement is maintained between elected Group I/II and non-elected Group III.

The election of species requirement is maintained as follows:

> The requirement to elect one of the toxic molecules as set forth in original claim 18 is maintained. Applicants elected ccdB.
>
> The requirement to elect between an exogenous compound or a compound which is synthesized by the host cell as set forth in original claim 24 is maintained. Applicants elected the exogenous compound.
>
> The requirement to elect one of the host cell compartments as set forth in original claims 26-27 is maintained. Applicants elected the chloroplast.
>
> The requirement to elect whether the selectable marker is bordered by two different or identical toxic genes as set forth in original claims 28 is maintained. Applicants elected a selectable marker which is bordered by two different toxic genes.
>
> The requirement to elect a biological organism from the groups of organism of plant, animal, mammal, insect or yeast has been reformatted as a requirement to elect a plant, animal or yeast. Applicants elected the yeast cell.

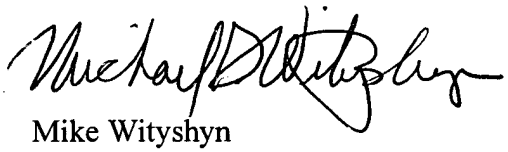
All other election of species requirements have been withdrawn for the reasons set forth in the discussion section of this decision.

The application will be forwarded to the examiner to consider the papers filed 10 June 2008 and to prepare an Office action addressing the claims of Groups I and II consistent with this petition decision.

Should all claims drawn to the elected invention become in condition for allowance, the examiner will consider claims directed to additional species and non-elected process in keeping with the guidance of MPEP 1893.05(d) and 821.04.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.



Mike Wityshyn
(Acting) Director, Technology Center 1600

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OFFICE OF PETITIONS

Townsend and Townsend and Crew LLP
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In re Application of :

Mark G. Erlander et al. :
Application No. 10/507,932 : DECISION ON PETITION
Filed: January 9, 2006 : TO WITHDRAW
Attorney Docket No. 022041.000710US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kawai Lau on behalf of all attorneys of record who are associated with Customer No. 20350.

All attorneys/agents associated with the Customer No. 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Mark G. Erlander**
442 Hillcrest Drive
Encinitas, CA 92024

cc: **Fish & Richardson**
225 Franklin Street, Suite 3100
Boston, MA 02110

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BRIARCLIFF MANOR NY 10510-8001

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JUL 25 2008

In re Application of	:	
David Andrew FISH	:	
Application No. 10/507,948	:	DECISION ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No. GB02 0021US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 2629 for appropriate action by the Examiner in the normal course of business on the reply received November 20, 2007.

for Thurman Page
Petitions Examiner
Office of Petitions

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8-9-07

wk

In re Application of	:	
Georges Metzger et al.	:	
Serial Number: 10/507,954	:	DECISION
Filed: September 14, 2004	:	ON
For: A Process For Improving The Sun Protection Factor of Cellulosic Fibre Material	:	PETITION

This is in response to a request filed under 37 CFR 1.181 filed February 5, 2007, requesting a refund of the fees for the Notice of Appeal filed January 5, 2007 because applicant did not intend to file a "Notice of Appeal" and that a continuation of the present application was filed on January 5, 2007 .

DECISION

The petition is **DENIED**.

A review of the current the file does not show a filing of a continuation. The current status of the application at the time of the filing of the Notice of Appeal was after final. A refund may be given for any fee paid by mistake or in excess of that required. There was no mistake for the fees paid by the applicant. The fees were paid to keep the application active and to avoid abandonment.

Jacqueline M. Stone/wk

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Tyler A. Stevenson
CIBA SPECIALTY CHEMICALS CORPORATION
PATENT DEPARTMENT
540 WHITE PLAINS RD
P O BOX 2005
TARRYTOWN NY 10591-9005

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,954	09/14/2004	Georges Metzger	TW/4-22642/A/PCT	3508

324 7590 04/10/2008

JoAnn Villamizar
Ciba Corporation/Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

EXAMINER	
KHAN, AMINA S	

ART UNIT	PAPER NUMBER
1751	

MAIL DATE	DELIVERY MODE
04/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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4-10-08

wk

In re Application of :
Georges Metzger et al. :
Serial Number: 10/507,954 : DECISION
Filed: September 14, 2004 : ON
For: A Process For Improving The Sun Protection Factor of Cellulosic Fibre Material : PETITION

This is in response to applicant's second request filed under 37 CFR 1.181 filed February 19, 2008, requesting a refund of the fees for the Notice of Appeal filed January 5, 2007 because applicant did not intend to file a "Notice of Appeal" and that a continuation of the present application was filed on January 5, 2007.

A final rejection was mailed out September 15, 2006. Applicant filed an amendment after final on November 13, 2006. An advisory was mailed out November 28, 2006 denying entry of the proposed amendment. On January 8, 2007 applicant filed petition for an extension of time and a Notice of Appeal. Applicant assert that the heading of the "Petition for Extension of Time" mistakenly also included the term "Notice of Appeal".

DECISION

The petition is **DISMISSED**.

The current status of the application at the time of the filing of the Notice of Appeal was after final. Besides the heading listing "Notice of Appeal", the body of the request also refers to a "Notice of Appeal".

A refund may be given for any fee paid by mistake or in excess of that required. There was no mistake for the fees paid by the applicant. The fees were paid to keep the application active and to avoid abandonment.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Tyler A. Stevenson
CIBA SPECIALTY CHEMICALS CORPORATION
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TARRYTOWN NY 10591-9005

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New York NY 10008-0770

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OFFICE OF PETITIONS

In re Application of
Schmid et al.
Application No. 10/507,979
Filed: September 15, 2004
Patent No. 7,317,267
Issued: January 8, 2008
Attorney Docket No. 04304/0201825-US0

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.183 filed February 26, 2008, which has been properly treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner indicates that the correct spelling of the assignee's name includes "Eletrodomesticos" rather than "Electrodomesticos" as is printed on the front page of the patent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). The processing fee set forth in 37 CFR 1.17(i) is equivalent to the fee set forth in 37 CFR 1.17(h), which was paid by credit card. Further, Office assignment records reflect that Multibras S.A. Eletrodomesticos is the assignee of record, which assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to correct the name of the assignee to be processed after issuance of this application into a patent.

Also, since the petition under 37 CFR 1.183 has been treated as a request under 37 CFR 3.81(b), the petition fee under 37 CFR 1.17(f) for consideration of a petition under 37 CFR 1.183 is not necessary.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Shih-Chun Lo	: DECISION ON REQUEST FOR
Patent Number	: 7641986	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1113** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

06 JAN 2005

#3

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OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON, CO 80435-5068

In re Application of	
WITTEVEEN, Bonny	
Application No.: 10/508,070	DECISION ON
PCT No.: PCT/CH03/00162	
Int. Filing Date: 12 March 2003	PETITION
Priority Date: 15 March 2002	
Attorney Docket No.: FREI.P-054	UNDER 37 CFR 1.182
For: PIEZOELECTRIC MOTOR AND METHOD FOR ACTUATING SAME	

This decision is in response to applicants' "Letter," filed with the United States Patent and Trademark Office on 01 November 2004. It has been treated as a petition under 37 CFR 1.182. The fee will be charged to deposit account no. 15-0610, as authorized.

BACKGROUND

On 12 March 2003, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US), which claimed a priority date of 15 March 2002. The submission included, *inter alia*, a transmittal Letter, an application data sheet and the basic national fee. The Transmittal Letter indicated the international application number was PCT/CH03/079462. The application data sheet indicated the papers were a national stage application of PCT/CH03/00162.

On 01 November 2004, applicants submitted the instant petition under 37 CFR 1.182.

DISCUSSION

Applicants have explained that the paperwork was directed toward a national stage entry of PCT/CH03/00162. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/CH03/00162.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including mailing of a Notification of Missing Requirements.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

30 JUN 2005

#7

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of POLZEHL et al. Application No.: 10/508,093 PCT No.: PCT/EP03/01717 Int. Filing Date: 20 February 2003 Priority Date: 16 March 2002 For: PLUG FOR CONNECTION STRIPS AND METHOD FOR THE PRODUCTION THEREOF	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "Communication Concerning Inventor Name Change: Copy of Notification of Defective Response" treated as a petition under 37 CFR 1.182, filed in the United States Patent and Trademark Office (USPTO) on 10 May 2005. Applicants request that the application reflect joint inventor Heiko Polzehl name change to Heiko Neumetzler. The $130 petition fee was authorized to be paid from applicants' deposit account.

On 15 September 2004, within 30 months from priority date of the international application, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee. The international application indicated that the inventors/applicants for the United States of America included Heiko Polzehl as a named joint inventor.

On 25 February 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that the oath or declaration supplied by applicants was not in compliance with 37 CFR 1.497(a) and (b) as it was not executed in accord with either 37 CFR 1.66 or 1.68, and that the $130 surcharge for filing the oath or declaration after the thirty month period was required.

On 12 April 2005, applicants filed "Communication Regarding Missing Requirements" accompanied by a declaration. On 27 April 2005, a Notification of Defective Response was mailed to applicants indicating that the oath or declaration supplied by applicants was not in compliance with 37 CFR 1.497(a) and (b) in that the name of the first inventor is different on the declaration, than on the international application and asked for clarification.

On 10 May 2005, applicants filed the instant communication in response to Notification of Defective Response. The paper indicated that Heiko Polzehl changed her family name to Neumetzler subsequent to the filing of the international application. However, applicants did not submit an affidavit signed by Heiko Polzehl Neumetzler stating the reason for the name change.

DISCUSSION

As explained in MPEP 605.04(c), applicants must provide a signed affidavit setting

forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant only submitted the statement of the attorney regarding the change of name of Heiko Polzehl. Applicant did not submit a signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names, Heiko Polzehl and Heiko Neumetzler. In lieu of this affidavit, applicant may file a certified copy of the court order. Thus, the evidence is insufficient to conclude that Heiko Polzehl changed her name to Heiko Neumetzler.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Heiko Polzehl to Heiko Neumetzler is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled " Renewed Petition Under 37 CFR 1.182."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Facsimile: 571-273-0459

18 AUG 2005

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MERCHANT & GOULD PC
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MINNEAPOLIS MN 55402-0903

In re Application of	:	DECISION ON
NEUMETZLER et al.	:	
Application No.: 10/508,093	:	RENEWED PETITION
PCT No.: PCT/EP03/01717	:	
Int. Filing Date: 20 February 2003	:	UNDER 37 CFR 1.182
Priority Date: 16 March 2002	:	
Attorney Docket No.: 2316.1878USWO	:	
For: PLUG FOR CONNECTION STRIPS AND METHOD FOR THE PRODUCTION THEREOF	:	

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.182" filed in the United States Patent and Trademark Office (USPTO) on 08 August 2005. Applicants request that the application reflect joint inventor Heiko Polzehl's name change to Heiko Neumetzler. The $130 petition fee has been paid.

On 12 April 2005, applicants filed "Communication Regarding Missing Requirements" accompanied by a declaration. On 27 April 2005, a Notification of Defective Response was mailed to applicants indicating that the oath or declaration supplied by applicants was not in compliance with 37 CFR 1.497(a) and (b) in that the name of the first inventor was different on the declaration, than on the international application and asked for clarification.

On 10 May 2005, applicants filed a communication in response to Notification of Defective Response. The paper indicated that Heiko Polzehl changed her family name to Neumetzler subsequent to the filing of the international application. On 30 June 2005, a decision dismissing applicant's petition was mailed indicating that applicants did not submit an affidavit signed by Heiko Polzehl Neumetzler stating the reason for the name change.

On 08 August 2005, applicant submitted a renewed petition under 37 CFR 1.182 along with the declaration of Heiko Neumetzler and a copy of certificate of marriage (and English translation thereof). The declaration states that Heiko Polzehl changed her name to Heiko Neumetzler upon her marriage. Thus, the evidence is sufficient to conclude that inventor Heiko Polzehl changed her name to Heiko Neumetzler.

The petition under 37 CFR 1.182 to change the inventor's name from Heiko Polzehl to Heiko Neumetzler is **GRANTED**. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 12 April 2005.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286

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MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of	:
Melissa Egbertson et al	:
Serial No.: 10/508,094	: PETITION DECISION
Filed: September 15, 2004	:
Attorney Docket No.: 21048YSP	:

This is in response to the petition under 37 CFR 1.144, filed April 13, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on September 15, 2004, and contained claims, as amended by preliminary amendment, 1-18. In a first Office action, mailed December 11, 2006, the examiner set forth a Lack of Unity requirement, as follows:

Group I, claims 1-2, 10-12, 14-18 (all in part), and 13, drawn to products of Formula 1 wherein $R^{3'}$ is 1,2-thiazine or 1,2,6-thiadiazine;

Group II, claims 1-2, 5-9 and 14-18 (all in part), drawn to products of Formula 1 wherein $R^{3'}$ is other heterocyclic rings;

Group III, claims 1-2 and 6-18 (all in part), and 3-4 drawn to products of Formula 1 wherein $R^{3'}$ is other variables or non-heterocyclic rings.

The examiner reasoned that Unity of Invention was lacking due to absence of a significant structural element defining a special technical feature. The examiner then indicated the special technical feature of each group as defined above lacked Unity of Invention. The examiner also required an election of species if either Group II or III was elected.

Applicants replied on January 16, 2007, electing, with traverse, Group I. Applicants argued that the Lack of Unity was improper as it did not recognize the large structure which all compounds have in common that would constitute the special technical feature required for Unity.

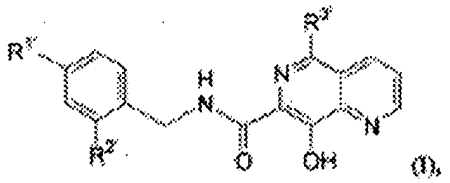
In the next Office action mailed to applicants on February 14, 2007, the examiner maintained the Lack of Unity requirement for the reasons set forth, again focusing on the $R^{3'}$ moiety as the

special technical feature which is very broadly defined and characterizing the large core structure as unimportant to the utility of the compounds. The examiner also stated that search of all the compounds would constitute an undue burden on the examiner. The examiner then rejected claims 15-16 under 35 U.S.C. 112, first paragraph, as lacking enablement and claims 1-18 for obvious double patenting. Claim 17 was rejected under 35 U.S.C. 112, second paragraph, as indefinite.

Applicants replied on April 13, 2007, amending claims 16 and 18 and canceling claim 15 and responding to the rejections appropriately. Applicants filed this petition of the Lack of Unity requirement concurrently.

DISCUSSION

Applicants argue that the examiner has failed to properly follow PCT guidelines in determining Lack of Unity by failing to determine the proper significant structural element common to all compounds, or has misidentified it. A review of the claims shows that all compounds are based on Formula I, as shown.

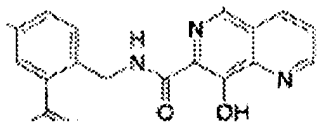


(I),

$R^{1'}$ is defined as H or F; $R^{2'}$ is a set of seven relatively simple variables; $R^{3'}$ is a set of 20 variables, both cyclic and non-cyclic and all containing heteroatoms. The examiner has focused on the $R^{3'}$ values as constituting the special technical feature. However PCT guidelines state as follows:

> When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:
> (A) All alternatives have a common property or activity; and
> (B) (1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives.

Clearly, as argued by applicants the portion of the structure which constitutes the common structure or significant structural element here is the N-benzyl-8-hydroxy-1,6-naphthyridine-7-carboxamide shown below:



Note that none of the R groups form or are included in the significant structural element. All of the compounds are claimed as having the same or similar property of HIV treatment. Therefore, the compounds of the claims meet the Unity of Invention requirements.

DECISION

The petition is **GRANTED.** The Lack of Unity requirement between Groups I-III is withdrawn.

The application will be forwarded to the examiner for consideration of applicants' response filed April 13, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Patent No. 7,512,416	:	
Arell, et al.	:	DECISION ON
Issue Date: March 31, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/508,097	:	OF
Filed: April 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-0118	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTEMENT DETERMINATION UNDER 37 CFR §1.705," filed May 14, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred and five(305) days to four hundred twenty-one(421) days.

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in *Wyeth v. Dudas*. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 31, 2009, the above-identified application matured into U.S. Patent No. 7,512,416 with a patent term adjustment of 305 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 116 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 316 days do not overlap as these periods do not occur on the same day.

Patentees calculate the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), as 116 days as being calculated from September 15, 2007 to the filing of a Request for Continued Examination on January 8, 2008.

Patentees assert that in addition to the three year delay period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) of 316 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date the application fulfilled the requirements of 35 U.S.C. 371 in an international application.

The period of reduction of 11 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (116 days) and the period of Examination Delay (316 days, not in dispute) to the extent that these periods of delay are not overlapping. Patentees contend that no portion of the two periods of delay overlap.

As such, patentees assert entitlement to a patent term adjustment of 421 days (316 + 116 reduced by 0 overlap - 11 for applicant delay).

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay.

The Office asserts that the patent issued 3 years and 116 days after the application's commencement date, September 14, 2007, the calculation of the three year period having ended when the January 8, 2008 RCE was filed. Applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision is cut off by the filing of the RCE. 37 CFR § 1.703(b)(1). The Office agrees that certain was not taken within the specified time frame, and thus, the entry of period of adjustment of 316 days is correct. At issue is whether patentees should accrue 116 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 316 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 116 days delay in issuance of the patent overlaps with the period of 316 days of examination delay. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C.

154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the commencement date overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the commencement date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

application's commencement date, September 14, 2004, to the date of filing of the RCE on January 8, 2008.

In accordance with 37 CFR 1.702(a)(1), 316 days of patent term adjustment were accorded prior to the filing of the request for continued examination for the Office failing to respond within a specified time frame during the pendency of the application. During that time, the issuance of the patent was delayed by 316 days, not 316 days and 116 days. The Office took 14 months and 316 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 316 days of Office delay, the 11 days of applicant delay, and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 116 days. The Office did not delay 316 days and then an additional 116 days. Accordingly, 316 days of patent term adjustment (not 316 and 116 days) was properly entered since the period of delay of 116 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 316 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Alesia M. Brown
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Michael Morgan et al :
Application No. 10/508,105 : DECISION ON PETITION
Filed: September 11, 2004 : TO WITHDRAW
Attorney Docket No. 650003.14888 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 19, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michael D. Harris; Bradford E. Mattes; Marvin H. Kleinberg; Finn T. Simmensen; Marshall A. Lerner; have been revoked by the applicants of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Michael D. Harris
Kleinberg & Lerner, LLP
2049 Century Park East, Suite 1080
Los Angeles, CA 90067

11 SEP 2006

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JEFFREY M. GREENMAN
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In re Application of
LUITHLE et al.
Application No.: 10/508,106
PCT No.: PCT/EP03/02152
Int. Filing Date: 03 March 2003
Priority Date: 15 March 2002
Attorney Docket No.: LeA 35 940
For: AMIDES OF ACETIC AND PROPIONIC ACIDS

: DECISION ON RESPONSE

This is a decision on applicants' "Reply to Notification of Defective Response", filed on 05 July 2005 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to correct a typographical error in the name of the inventor Katrin Schnizler.

On 03 June 2005, a Notification of Defective Response was mailed to applicant indicating that the oath or declaration was not executed in accordance with either 37 CFR 1.66 or 1.68 and drawing applicant's attention to the fact that the spelling of the fourth inventor's surname on the declaration 'Schnizler' did not correspond with the name on the published International application.

On 05 July 2005, applicant filed a Reply to Notification of Defective Response. Applicant stated that the name Katrin Schnizler was spelled correctly and that in a corrected version of PCT/EP03/02152 where the name of the applicant, Bayer HealthCare AG was corrected, the name of Katrin Schnizler was mistakenly changed to "Schnitzler". The spelling of the surname "Schnitzler" identified in the corrected published international application was a typographical error and the complete and correct name of the inventor is Katrin Schnizler.

Applicant's request to correct the inventor's name and notifying the Office that the correct spelling of the inventor's given name is as follows: Katrin Schnizler. The present communication was filed explaining that the surname of Ms. Schnizler was incorrectly spelled in the international application as the result of a typographical error. Applicant's explanation of the difference in the spelling of Ms. Schnizler's surname is accepted and noted for the record. The declaration submitted on 06 May 2005 is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

The request to correct a typographical error in the name of the inventor to Katrin Schnizler is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **06 May 2005.**

/Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571)272-3286
Facsimile: (571)273-0459

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OFFICE OF PETITIONS

In re Patent No. 7,553,851	:	DECISION ON REQUEST FOR
LUITHLE et al.	:	RECONSIDERATION OF
Issue Date: June 30, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/508,106	:	NOTICE OF INTENT TO ISSUE
Filed: May 6, 2005	:	CERTIFICATE OF CORRECTION
Atty Docket No. LE A 35 940	:	

This is a decision on the petition filed on August 31, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-seven (1057) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-seven (1057) days [1] is **GRANTED.**

---

[1] The "B" delay period is 654 days, not 655 days. The priority date of this application is March 15, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on September 15, 2004. Thus, "B" delay is 654 days, counting the number of days beginning on September 16, 2007, and ending on June 30, 2009, the date of issuance. See 37 CFR 1.703(b). Additionally, the overlapping period is 151 days, not 152 days as asserted by patentee.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand fifty-seven (1057) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,553,851 B2

DATED : Jun. 30, 2009 **DRAFT**

INVENTOR(S) : Luithle et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 554 days

Delete the phrase "by 554 days" and insert – by 1057 days--

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SEP 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Uwe Kempin et al. :
Application No. 10/508,113 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 21697.26811 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 6735.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Emerson, Thomson & Bennett
777 West Market Street
Akron, OH 44303

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SEP 25 2008

In re Application of	:	
Cao et al.	:	
Application No. 10/508,131	:	LETTER REGARDING
Filed: September 16, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 9896-049/NP	:	

This is in response to the "GOOD FAITH AND CANDOR LETTER," filed July 25, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance should be seventy-nine (79) days, not eighty-two (82) days.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seventy-nine **(79)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On June 27, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 82 days. Applicants disclose that a Request for Continued Examination (RCE) was filed on July 23, 2007, not July 20, 2007, in response to the final Office action mailed March 22, 2007. Using the correct date of filing of the RCE, applicants disclose that a period of reduction of 31 days, not 28 days, should have been entered, and thus, the initial determination of patent term adjustment is 79 days, not 82 days.

A review of the record confirms that in response to the final Office action mailed March 22, 2007, applicants did not file an RCE until July 23, 2007, three months and 31 days later. As such, a period of reduction of 31 days, instead of 28 days, is being entered pursuant to 37 C.F.R. §1.704(b).

As such, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is seventy-nine (79) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Sunday
Date: 9/21/2008

PALM INTRANET

Time: 11:46:44

PTA Calculations for Application: 10/508131			
Application Filing Date:	09/16/2004	PTO Delay (PTO):	127
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	45
Post-Issue Petitions:	0	Total PTA (days):	79
PTO Delay Adjustment:	-3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	09/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
70	09/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	28		
63	06/27/2008	MAIL NOTICE OF ALLOWANCE			
62	06/23/2008	DOCUMENT VERIFICATION			
61	06/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	06/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
59	06/09/2008	NOTICE OF ALLOWABILITY			
57	05/23/2008	DATE FORWARDED TO EXAMINER			
56	05/12/2008	AMENDMENT AFTER FINAL REJECTION			
53	05/20/2008	MAIL FINAL REJECTION (PTOL - 326)			
52	05/19/2008	FINAL REJECTION			
50	05/16/2008	DATE FORWARDED TO EXAMINER			
49	05/12/2008	AMENDMENT AFTER FINAL REJECTION			
48	03/13/2008	MAIL FINAL REJECTION (PTOL - 326)			
47	03/03/2008	FINAL REJECTION			
46	10/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	01/14/2008	DATE FORWARDED TO EXAMINER			
44	12/26/2007	RESPONSE AFTER NON-FINAL ACTION			
43	10/24/2007	REFERENCE CAPTURE ON IDS			
42	10/24/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
41	10/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	09/26/2007	MAIL NON-FINAL REJECTION			
39	09/14/2007	NON-FINAL REJECTION			

38	07/24/2007	DATE FORWARDED TO EXAMINER			
37	07/20/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		28	29
36	07/24/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	07/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	07/23/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	06/21/2007	MAIL ADVISORY ACTION (PTOL - 303)			
32	06/11/2007	ADVISORY ACTION (PTOL-303)			
31	06/01/2007	DATE FORWARDED TO EXAMINER			
30	05/22/2007	AMENDMENT AFTER FINAL REJECTION			
29	03/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
28	03/19/2007	FINAL REJECTION			
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26	12/27/2006	RESPONSE AFTER NON-FINAL ACTION		2	24
25	12/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	09/25/2006	MAIL NON-FINAL REJECTION			
23	09/18/2006	NON-FINAL REJECTION			
22	07/10/2006	DATE FORWARDED TO EXAMINER			
21	07/08/2006	RESPONSE AFTER NON-FINAL ACTION		15	19
20	07/08/2006	NEW OR ADDITIONAL DRAWING FILED			
19	03/23/2006	MAIL NON-FINAL REJECTION	127		-1
18	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/20/2006	NON-FINAL REJECTION			
16	12/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	01/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	01/21/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	01/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	12/22/2004	REFERENCE CAPTURE ON IDS			
11.7	12/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	12/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/16/2004	PRELIMINARY AMENDMENT			
7	05/19/2005	CLEARED BY OIPE CSR			

6	05/19/2005	CLEARED BY OIPE CSR			
5	05/04/2005	CLEARED BY OIPE CSR			
4	09/22/2004	371 COMPLETION DATE			
3	04/18/2005	APPLICATION DISPATCHED FROM OIPE			
2	04/18/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	09/16/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Gabor Bajko	: DECISION ON REQUEST FOR
Patent Number	: 7647493	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,136	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1431** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Date April 23, 2009

Patent No. :7314514
Inventor(s) : Drummond et al.
Issued :January 1, 2008
Title :ELECTROLYTE FOR AN ENERGY STORAGE DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration, Oath and/or ADS submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, applicants request in this matter is hereby denied.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Mary Diggs, Supervisor,
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Kenyon & Kenyon, LLP
1500 K. Street, N.W. Suite 700,
Washington, DC 20005

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : April 27, 2009

Patent No. : 7314514
Inventor(s): : Drummond et al.
Issued : January 1, 2008
Title : ELECTROLYTE FOR AN ENERGY STORAGE DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

With respect to the alleged error concerning the deletion of inventors' names; the inventors are printed in accordance with the Declaration and/or ADS submitted at the time of filing the application or the filing of a petition during pendency. Review of the application file does not reveal a petition/amendment that meet the requirement of changing the inventorship. Accordingly, correction is not warranted under 1.322 or 1.323 as filed.

In view of the foregoing, your request is hereby denied.

However, your attention is directed to 37 C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Kenyon & Kenyon LLP
1500 K. Street, N.W. Ste 700
Washington DC 20005

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OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of :
Hendrikus A. C. BAKkER et al. :
Application No. 10/508,165 : DECISION ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. **P0850.70003US01** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 11, 2008, which set a shortened statutory period for reply of three (3) months. An advisory action was mailed on September 19, 2008, in response to an After-Final amendment filed by the applicants on August 11, 2008. The period of reply expired on September 19, 2008, the date the Advisory Action was mailed. Accordingly, the application became abandoned on September 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of June 11, 2008 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on December 19, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1638 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Hendrikus Antonius Cornelis Bakker	: DECISION ON REQUEST FOR
Patent Number	: 7601891	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1110** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MILLEN, WHITE, ZELANO AND BRANIGAN, P.C.
C/O BERLEX BIOSCIENCES
2200 CLARENDON BOUEVARD
SUITE 1400
ARLINGTON VA 22201

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OFFICE OF PETITIONS

In re Application of	:	
Buckman et al.	:	
Application No. 10/508,169	:	DECISION ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 52226AUSM1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 15, 2008, as required by the Notice of Allowance and Fee(s) Due mailed September 15, 2008. Accordingly, the date of abandonment of this application is December 16, 2008. A Notice of Abandonment was mailed January 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

Mail Date: 07/07/2010

Applicant	: Herbert A. Little	: DECISION ON REQUEST FOR
Patent Number	: 7661140	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/508,187	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1480** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AZ ELECTRONIC MATERIALS USA CORP.
ATTENTION: INDUSTRIAL PROPERTY DEPT.
70 MEISTER AVENUE
SOMERVILLE NJ 08876

In re Application of ZIMMERMAN et al. Application No.: 10/508,193 PCT No.: PCT/EP03/02676 Int. Filing: 14 March 2003 Priority Date: 22 March 2002 Attorney Docket No.: 2002DE303 For: PLASTIC FILM WITH A MULTILAYERED INTERFERENCE COATING	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicants' "PETITION UNDER 37 CFR 1.181 TO REVIVE AN UNINTENTIONALLY ABANDONED NATIONAL STAGE PATENT APPLICATION FROM A PCT PATENT APPLICATION" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 04 May 2005. The petition will be treated as a petition under 37 CFR 1.137(b).

BACKGROUND

On 18 September 2004, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 26 January 2005, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to provide the full U.S. Basic National Fee by 30 months. In an attempt to charge the basic national filing fee, an error message was transmitted indicating that this "Deposit account is currently NOT ACTIVE". Thus , the basic filing fee could not be collected due to an inactive deposit account.

On 04 May 2005, in response to the Notification of Abandonment, applicant filed the instant petition to revive with the basic national filing fee.

DISCUSSION

The petition to revive under 37 CFR 1.137(b) is hereby GRANTED as follows:

Applicants' statement that the "the failure to pay the full US Basic National Fee by 30 months was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

The basic national fee of $300, the Search fee of $500 and Examination fee of $200 will be charged to applicant's deposit account per their authorization. The required petition fee of $1500 and $130 surcharge for filing the declaration after the thirty month period will also be charged. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

A review of the declaration reveals that the declaration identifies the inventors, and states the mailing address of the inventor. However, the declaration does not identify the citizenship of the inventors and thus, the declaration is unacceptable as the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The copy of the declaration submitted on 04 May 2005 is unacceptable and does not meet the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing including the issuance of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

05 JUL 2005

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AZ ELECTRONIC MATERIALS USA CORP.
ATTENTION: INDUSTRIAL PROPERTY DEPT.
70 MEISTER AVENUE
SOMERVILLE NJ 08876

In re Application of
ZIMMERMAN et al.
Application No.: 10/508,193
PCT No.: PCT/EP03/02676
Int. Filing: 14 March 2003
Priority Date: 22 March 2002
Attorney Docket No.: 2002DE303
For: PLASTIC FILM WITH A MULTILAYERED INTERFERENCE COATING

: DECISION

This is a decision on applicants' "Response to Decision on Petition Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 30 June 2005.

On 18 September 2004, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 26 January 2005, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to provide the full U.S. Basic National Fee by 30 months. In an attempt to charge the basic national filing fee, an error message was transmitted indicating that this "Deposit account is currently NOT ACTIVE". Thus , the basic filing fee could not be collected due to an inactive deposit account.

On 04 May 2005, in response to the Notification of Abandonment, applicant filed the instant petition to revive with the basic national filing fee.

On 22 June 2005, a decision granting the petition to revive was mailed indicating that the declaration submitted did not identify the citizenship of the inventors and thus, the declaration is unacceptable as the requirements of 37 CFR 1.497.

On 30 June 2005, applicant submitted the instant response to the decision explaining that the citizenship of each of the inventors did appear on the declaration. A closer review of the declaration indicates that the citizenship of the inventors appears on the second page. Thus, the declaration is acceptable and meets the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **04 May 2005.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

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SMITH LAW OFFICE
440 SCIENCE DR.
SUITE 302
MADISON WI 53711

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OFFICE OF PETITIONS

In re Application of
Frank Holscher et al.
Application No. 10/508,204 : ON PETITION
Filed: March 29, 2005
Attorney Docket No: **10016.511**

This is a decision on the petition filed September 18, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment and the petition filed October 5, 2007, under 37 CFR 1.137(a), to revive the above identified application.

The petition to revive is **DISMISSED** as involving moot issues.
The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on April 19, 2007, for failure to file a timely response to the non-Final Office Action mailed January 18, 2007, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed on September 12, 2007.

Petitioner asserts that a response to the non-Final Office Action was timely filed on July 18, 2007 with a three month extension of time request and submits as proof, a copy of the response which bears a certificate of express mail date July, 18, 2007, pursuant to 37 CFR 1.10, and a copy of a postcard receipt date stamped July 18, 2007 by the USPTO.

A review of the file reveals that in fact, the response is of record and the fee in the amount of $1020.00 for the three month extension of time has been applied.

In view of the above, there is no need to treat the petition to revive and the fee paid with the petition to revive under 37 CFR 1.137(a) is being credited to deposit account no. 50-2911.

This matter is being referred to Technology Center 3644 for treatment of the response filed July 18, 2007.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Iris Tzafir
Fish & Richardson P.C., P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402

In re Application of :
KOBAYASHI, Masanobu :
Application No.: 10/508,272 : DECISION ON PETITION
Filing Date: 17 September 2004 : UNDER 37 CFR 1.181
Attorney Docket No.: 18220-002US1 :
For: PEPTIDES, DNA, RNAS, AND :
COMPOUNDS FOR INHIBITING OR :
INDUCING ADRENOMEDULLIN
ACTIVITY, AND USE OF THE SAME

This is a decision on applicants' "Petition under 37 CFR 1.182 to Convert a National Application Filed under 35 U.S.C. 371 to an Application under 35 U.S.C. 111" filed on 21 December 2004 in the United States Patent and Trademark Office (USPTO), which requests that the application papers submitted on 17 September 2004 be considered a filing under 35 U.S.C. 111. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 March 2003, applicants filed international application no. PCT/JP03/03344 which claimed a priority date of 19 March 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 September 2004.

On 17 September 2004, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee and a copy of the international application.

On 21 December 2004, applicants filed "Petition under 37 CFR 1.182 to Convert a National Application Filed under 35 U.S.C. 371 to an Application under 35 U.S.C. 111" which requests that the application papers submitted on 17 September 2004 be considered a filing under 35 U.S.C. 111.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 17 September 2004, applicants submitted a specification which stated "this application is a continuation-in-part of International Application Serial No. PCT/JP03/03344 filed on March 19, 2003, the content of which are hereby incorporated by reference in its entirety." The statement in the specification is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 17 September 2004 should have been treated as a filing under 35 U.S.C. 111(a).

CONCLUSION

The petition to convert the application from a national stage application under 35 U.S.C. 371 to a 35 U.S.C. 111 filing is **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

22 DEC 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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H. Thomas ANDERTON, Jr.
GENENCOR INTERNATIONAL, INC.
925 Page Mill Road
Palo Alto, CA 94304-1013

In re Application of:
GAST, Alice, P., et al.
U.S. Application No.: 10/508,294
PCT No.: PCT/US03/12865
Int'l Filing Date: 25 April 2003
Priority Date: 26 April 2002
Attorney's Docket No.: GC746-2-US
For: SYSTEM AND METHOD OF MEASURING MOLECULAR INTERACTIONS

DECISION ON PETITION
(37 CFR 1.47(a))

This decision is issued in response to applicants' petition under 37 CFR 1.47(a), filed 11 October 2005. Applicants submitted $130 as the petition fee. However, the applicable petition fee is $400. Deposit Account No. 07-1048 will be charged the additional $270 required for the full petition fee.

BACKGROUND

On 25 April 2003, applicants filed international application PCT/US03/12865 which claimed a priority date of 26 April 2002 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 26 October 2004.

On 20 September 2004, applicants filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 10 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 28 April 2004, applicants filed a response to the Notification Of Missing Requirements.[1] The response included payment of the required surcharge, a declaration

[1] The response was accompanied by a request for a three-month extension of time, followed by a supplemental request for a four-month extension of time. However, a five-month extension of time is required here (from the 10 May 2005 due date to 10 October 2005). Accordingly, in order to avoid abandonment, Deposit Account No 07-1048 will be charged the fee for a five-month extension of time. Based on this extension, the present response is considered timely filed.

executed by five of the six named inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Alice GAST, whom applicants assert has refused to sign the application documents.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration by the other inventors on behalf of the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted part of the petition fee, and Deposit Account No. 07-1048 will be charged the necessary balance. Item (1) is therefore satisfied.

The petition sets forth the last known address of the inventor. Accordingly, item (2) is therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by five of the six inventors and including an unsigned signature box identifying the nonsigning inventor. This declaration is treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted to demonstrate Dr. GAST's refusal to execute the application papers is contained in the "Statement Of Facts" included in the petition, and the exhibits thereto. These materials provide the required firsthand statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (4) is therefore satisfied.

Based on the above, applicants have satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted under 37 CFR 1.47(a) without the signature of inventor Alice P. GAST.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 11 October 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

22 DEC 2005

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Alice P. GAST
18 Varick Road
Wagan, Massachusetts 02468

In re Application of: GAST, Alice, P., et al.
U.S. Application No.: 10/508,294
PCT No.: PCT/US03/12865
Int'l Filing Date: 25 April 2003
Priority Date: 26 April 2002
Attorney's Docket No.: GC746-2-US
For: SYSTEM AND METHOD OF MEASURING MOLECULAR INTERACTIONS

Dear Dr. GAST:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel Of Record:
H. Thomas ANDERTON, Jr.
GENENCOR INTERNATIONAL, INC.
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Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York NY 10281-2101

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OFFICE OF PETITIONS

In re Application :
Lopez Blanco, et al. :
Application No. 10/508,305 : PATENT TERM ADJUSTMENT
Filed: May 11, 2005 :
Dkt. No.: 4627-4005 ::

This decision is in response to the "STATEMENT REGARDING PATENT TERM ADJUSTMENT UNDER WYETH V. DUDAS," filed January 20, 2009. This matter is being properly treated as a timely filed application for patent term adjustment pursuant to 37 CFR 1.705(b).

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed November 18, 2008, indicated a patent term adjustment to date of 545 days. Applicants argue that the application is entitled to an additional adjustment of 158 days pursuant to 35 USC 154(b)(1)(B).

Applicants do not dispute the adjustments of 566 days or the reductions of 21 days accorded to date.

Instead, applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of §

1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

In view thereof, at the time of allowance, the application is entitled to an overall adjustment of 545 days.

The required patent term adjustment application fee of $200.00 has been charged to applicants' deposit account, as authorized.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York NY 10281-2101

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DEC 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,560,435 :
Issued: July 14, 2009 :
Application No. 10/508,305 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 11, 2005 :
Dkt. No.: 4627-4005 :

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed September 11, 2009. Patentees request correction of the patent term adjustment from 600 days to 703 days. Patentees requested this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,560,435 on July 14, 2009. The patent issued with a patent term adjustment of 600 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Applicants argued that in view of Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), the patent was entitled to an adjustment of 703 days (566 days pursuant to 35 USC 154(b)(1)(A) *plus* 158 days pursuant to 35 USC 154(b)(1)(B) *less* 21 days applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the Request for Continued Examination (RCE) on October 16, 2008, the application was pending three years and 390 days after national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. The commencement date is the date 30 months from the earliest priority date claimed in the international application[1]. In this application, the earliest priority date claimed, as shown on the Notice of Acceptance of Application Under 35 U.S.C. § 371 and 37 CFR 1.495, mailed June 30, 2005, is March 21, 2002.

[1] It is noted that the application included a request for immediate examination, however, the application was not complete until May 11, 2005, which is beyond 30 months from the earliest priority date of the application. Accordingly, despite the request for immediate examination, commencement occurred September 21, 2004, 30 months from the earliest priority date claimed in the international application.

Accordingly, the commencement date is September 21, 2004, and the period of adjustment pursuant to 37 CFR 1.703(b) began September 22, 2007, the day after the date that is three years after the date that national stage commenced, and ended October 15, 2008, the day before the date that the request for continued examination (RCE) was filed.

The Office agrees that at the time of filing of the RCE certain action was not taken within the specified time frame, and thus, the adjustment of 566 days pursuant to 37 CFR 1.702(a)(1) is correct. At issue is whether patentees should accrue 390 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 566 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 390 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 566 days of examination delay under 37 CFR 1.702(a)(1). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[2] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg.

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[2] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after national stage commenced, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date that national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, September 21, 2004, and ending on October 15, 2008, the day before the date that the RCE was filed on October 16, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 566 days of examination delay accrued prior to submission of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), at the time of submission of the RCE, the application was pending three years and 390 days.

The 390 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 566 days of patent term adjustment under 37 CFR 1.702(a)(1) that accrued prior to the submission of the RCE. Entry of both the 566 days and the 390 days is neither permitted nor warranted given that 566 days is the actual number of days issuance of the patent was delayed as of the filing of the RCE.

Accordingly, at issuance, having considered the 390 days of Office delay under the three-year pendency provision in conjunction with the 566 days of examination delay under 37 CFR 1.702(a)(1) that accrued prior to the filing of the RCE and the 55 days of examination delay under 37 CFR 1.702(a)(4) that accrued subsequent to the filing of the RCE, reduced 21 days for applicant delay, the Office properly entered 600 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

No additional fee is due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York, NY 10281-2101

Mail Date: 04/20/2010

Applicant	: Jose Manuel Lopez Blanco	: DECISION ON REQUEST FOR
Patent Number	: 7560435	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,305	: OF WYETH
Filed	: 05/11/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

29 SEP 2005

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P.O. Box 1450
Alexandria, VA 22313-1450
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Donna M. Ferber
Greenlee, Winner and Sullivan, P.C.
5370 Manhattan Circle, Suite 201
Boulder, CO 80303

In re Application of	:
Stephens, et al.	:
Application No.: 10/508,309	:
PCT No.: PCT/US03/08795	:
Int. Filing Date: 20 March 2003	: DECISION
Priority Date: 20 March 2002	:
Attorney's Docket No.: 76-01	:
For: NEISSERIA MUTANTS,	:
LIPOOLIGOSACCHARIDES AND IMMUNOGENIC	:
COMPOSITIONS	:

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT AND NOTICE OF ACCEPTANCE UNDER 35 U.S.C. AND 37 C.F.R. 1.495" filed on 13 May 2005. No petition fees are due.

BACKGROUND

On 20 March 2003, applicant filed international application PCT/US03/08795 that claimed priority of an earlier United States Provisional application which was filed 20 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 20 September 2004.

On 20 September 2004, applicant filed a letter for entry into the national stage in the United States which was accompanied by, inter alia, a sequence listing CRF, paper copy and statement regarding and a check to pay the basic national fee of $365 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/508,309.

On 28 January 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903). This notice indicated that the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (2) and (4) was 20 September 2004.

On 13 May 2005, applicants filed the current request asking that a corrected filing receipt and "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) be prepared since the original contained the wrong inventors and the wrong address for applicants' agent.

DISCUSSION

A review of the application indicates that a declaration for a different national phase application was inadvertently placed in applicant's file. Therefore, the wrong inventors and address were put on the file.

It should be noted that applicant has not yet filed a declaration for the inventors. Therefore, it would be premature to prepare either a new "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) or filing receipt.

CONCLUSION

The "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) mailed on 28 January 2005 and the official filing receipt are hereby **VACATED**.

This application is being forwarded to the national stage office for **correction of the address and inventor names**, removal of the improper declaration from this application, and preparation of a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration in compliance with 37 CFR 1.497(a)-(b).

Debra S. Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

DSB/RC:dsb
Telephone: (571) 272-3280
Facsimile: (571) 273-0459

UNITED STATES PATENT
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Date Mailed: 3, 2008
Patent No. :7,286,150 B2
Ser. No. :10/508323
Inventor(s) :Richard A. Hann
Issued :Oct. 23, 2007
Title: THERMAL TRANSFER LPRINTING

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A certificate of correction will issue for the remaining errors in your request, except adding the foreign **reference** since there is no record on the **1449 or 892** where references were considered by the examiner.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004

MD/mt

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OFFICE OF PETITIONS

In re Patent No. 7286150	:	
Issue Date: 10/23/2007	:	
Application No. 10/508323	:	ON PETITION
Filed: 09/20/2004	:	
Attorney Docket No. 056222-5061	:	

This is a decision on the petition filed on November 6, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The processing fee required of $130.00 required by 37 CFR 3.81(b) will be charged to counsel's deposit account, as authorized in the subject petition.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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MINNEAPOLIS, MN 55440-1022

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
Christopher Luckhurst, et al. :
Application No. 10/508,331 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. 06275-416US1 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 5, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 28, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 28, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 29, 2008. A Notice of Abandonment was mailed on November 24, 2008. On December 5, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/26/09

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10508332 Patent No.: 7482363 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1626

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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,482,363	:	DECISION ON REQUEST
Sanganee et al.	:	FOR
Issue Date: January 27, 2009	:	RECONSIDERATION OF
Application No. 10/508,332	:	PATENT TERM ADJUSTMENT
Filed: September 17, 2004	:	and
Atty Docket No. 06275-417US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 26, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-three (1053) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-three (1053) days is **GRANTED**.

It is noted, however, that the calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of September 20, 2004. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, September 20, 2004. This does not change the revised patent term adjustment as both the over 3 year period is reduced from 496 days to 495 days and the overlap period is reduced from 141 days to 140 days. As such the patent term adjustment is still increased by 355 days to 1053 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of

the above-identified patent is extended or adjusted by **one thousand fifty-three (1053)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,482,363 B2.

DATED : **January 27, 2009** **DRAFT**

INVENTOR(S) : Sanganee et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby
corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 784 days

Delete the phrase "by 784 days" and insert – by 1053 days--

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L.L.P.
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Suite 400 East
Washington DC 20005-1503

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Koji Teshima, et al.	:	DECISION ON APPLICATION
Application No. 10/508,339	:	FOR
Filed: October 25, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2004-1514A	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed April 28, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred seventy-three (473) days to four hundred seventy-seven(477) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **four hundred seventy-seven(477)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On January 28, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 473 days. On April 28, 2009, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 38 days associated with the filing of an amendment on January 15, 2009. Applicants assert that a reduction of only 34 days should be

[1] PALM records indicate that the Issue Payment was also filed on April 28, 2009.

assessed against applicants because a proper reply, in the form of an amendment that *prima facie* places the application in condition for allowance, was filed three months and 34 days after the final Office action of September 12, 2008 was mailed.

The record supports a conclusion that this application is not subject to a terminal disclaimer.

Applicants' arguments have been considered and found persuasive.

A review of the application history reveals that a period of reduction of 34 days should have been entered. 37 CFR 1.704(b) provides, in pertinent part, that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A review of the record reveals that a final Office action was mailed on September 12, 2008. Applicants filed an amendment after final on December 8, 2008. The December 8, 2008 amendment did not place the application in *prima facie* condition for allowance. This conclusion is supported by the Examiner Interview Summary Record of January 11, 2009, which states that one of the claims in the December 8, 2008 amendment was not acceptable and that the examiner contacted applicants to suggest a correction and request that applicants submit corrected claims. Applicants filed an amendment correcting the claims on January 15, 2009.

As the December 8, 2008 amendment was not in compliance with § 1.113(c), the period for reply to the final rejection mailed September 12, 2008, continued to run. A proper reply, an

amendment that *prima facie* placed the application in condition for allowance, was not received in the Office until January 15, 2009. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to a reduction of 34 days for applicant delay for the period beginning on December 13, 2008, the day after the date that is three months after the mailing date of the final Office action, and ending on January 15, 2009, the date the reply in compliance with §1.113(c) was filed. The period of reduction of 38 days previously entered is being removed and a period of reduction of 34 days is being entered for this applicant delay.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 477 days (575 days of Office delay reduced by 98 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

PTA Calculations for Application: 10/508339			
Application Filing Date:	10/25/2004	PTO Delay (PTO):	575
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	102
Post-Issue Petitions:	0	Total PTA (days):	477
PTO Delay Adjustment:	4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		34	
60	06/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	38		
53	02/23/2009	MAIL NOTICE OF ALLOWANCE			
52	01/22/2009	ISSUE REVISION COMPLETED			
51	02/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	02/23/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
49	01/22/2009	DOCUMENT VERIFICATION			
48	02/23/2009	NOTICE OF ALLOWABILITY			
47	02/23/2009	DATE FORWARDED TO EXAMINER			
46	01/15/2009	SUPPLEMENTAL RESPONSE		38	33
41	01/22/2009	CASE DOCKETED TO EXAMINER IN GAU			
37	01/11/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	01/16/2009	DATE FORWARDED TO EXAMINER			
35	01/15/2009	SUPPLEMENTAL RESPONSE			
34	01/05/2009	DATE FORWARDED TO EXAMINER			
33	12/08/2008	AMENDMENT AFTER FINAL REJECTION			
32	09/12/2008	MAIL FINAL REJECTION (PTOL - 326)			
31	09/12/2008	FINAL REJECTION			
30	07/12/2008	DATE FORWARDED TO EXAMINER			
29	06/18/2008	RESPONSE AFTER NON-FINAL ACTION			
28	03/18/2008	MAIL NON-FINAL REJECTION			
27	03/13/2008	NON-FINAL REJECTION			
26	02/06/2008	DATE FORWARDED TO EXAMINER			
25	12/26/2007	RESPONSE AFTER NON-FINAL ACTION		64	23

24	12/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	07/23/2007	MAIL NON-FINAL REJECTION	575		-1
22	07/17/2007	NON-FINAL REJECTION			
21	07/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	05/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	10/14/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	10/25/2004	MISCELLANEOUS INCOMING LETTER			
10	10/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	10/25/2004	REFERENCE CAPTURE ON IDS			
7	02/28/2005	CLEARED BY OIPE CSR			
6	02/18/2005	CLEARED BY OIPE CSR			
5	02/18/2005	CLEARED BY OIPE CSR			
4	10/25/2004	371 COMPLETION DATE			
3	02/08/2005	APPLICATION DISPATCHED FROM OIPE			
2	02/08/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ALEXANDRIA VA 22314

In re Application of :
KOGA, Yasuhiro., et al. :
Application No.: 10/508,340 : DECISION
PCT No.: PCT/JP02/03177 :
Int. Filing Date: 29 March 2002 : ON PETITION UNDER
Priority Date: None :
Docket No.: KOGA3003/GAL : 37 CFR 1.181
For: LIVE BACTERIA PREPARATION ... :
LACTIC ACID BACTERIUM

This decision is in response to applicant's "Request For Withdrawal of Holding of Abandonment," filed in the United States Patent and Trademark Office on 06 September 2006. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 29 March 2002, applicant filed international application PCT/JP02/03177. A copy of the application was transmitted to the Office by the International Bureau on 09 October 2003. The deadline for payment of the basic national fee in the United States was 29 September 2004.

On 20 September 2004, applicant filed a transmittal letter accompanied by the basic national fee.

On 29 March 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 03 May 2005, applicant submitted a declaration of the inventor and the surcharge for late filing of the declaration.

On 09 August 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 06 September 2006, applicant submitted this petition under 37 CFR 1.181 asking that the abandonment be withdrawn in this application.

On 21 December 2006, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 USC 371 (c)(1), (c)(2) and (c)(4) date of 03 May 2005, as did all of the 35 USC 371 requirements.

On 09 February 2007, applicants filed a status inquiry in this application indicating that they had never received a communication indicating that the Notification of Abandonment had been withdrawn.

DISCUSSION

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 August 2006 issued in error. The Notification is vacated. PALM records indicate that the Abandonment has been withdrawn.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 August 2006 is **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing consistent with this decision.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

#8

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30 JAN 2006

Leon R Yankwich
Yankwich & Associates
201 Broadway
Cambridge MA 02139

In re Application of SLACK et al.
Application No.: 10/508,353
PCT No.: PCT/GB03/01180
Int. Filing: 17 March 2003
Priority Date: 18 March 2002
Attorney Docket No.: ABL-006.1P US
For: TRANSDIFFERENTIATION OF CELLS AND TISSUES

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that a declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors and the $65 surcharge for filing the declaration after the thirty month period has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 December 2005.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

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OFFICE OF PETITIONS

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

In re Application of :
Palmer et al. :
Application No. 10/508,384 : ON PETITION
Filed: September 20, 2004 :
Attorney Docket No. 1471U.000022 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 12, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 13, 2008. A Notice of Abandonment was mailed June 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Peter Grabau, et. al. :
Application No. 10/508,385 : ON PETITION
Filed: September 20, 2004 :
Attorney Docket No. 1175/73025 :

This is a decision on the petition under 37 CFR 1.137(b), filed on August 9, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed January 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3745, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

#5

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15 FEB 2006

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MICHAEL BEST & FRIEDRICH, LLP
100 E. Wisconsin Avenue
Milwaukee, WI 53202

In re Application of	:	
ZIKELI, Stefan, et al.	:	
U.S. Application No.: 10/508,394	:	DECISION ON PETITION RE:
PCT No.: PCT/EP03/02426	:	FAILURE TO RECEIVE OFFICE
International Filing Date: 10 March 2003	:	COMMUNICATION
Priority Date: 22 March 2002	:	(37 CFR 1.181)
Attorney's Docket No.: 041165-9074-00	:	
For: METHOD AND DEVICE FOR REGULATING	:	
THE ATMOSPHERIC CONDITIONS DURING	:	
A SPINNING PROCESS	:	

This decision is issued in response to the "Statement Based On Failure To Receive Notice Of DO/EO Missing Requirements" filed on 24 October 2005, treated herein as a petition to confirm applicants' failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 21 April 2005. No petition fee is required.

BACKGROUND

On 10 March 2003, applicants filed international application PCT/EP03/02426 which claimed a priority date of 22 March 2002 and which designated the United States. On 02 October 2003, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was 22 September 2004, i.e., thirty months from the priority date.

On 21 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 21 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 24 October 2005, applicants filed the "Statement Based On Failure To Receive Notice Of DO/EO Missing Requirements" considered as a petition herein. In the petition, applicants assert that the Notification Of Missing Requirements mailed 21 April 2005 was never received. The petition is accompanied by an executed declaration and payment of the required surcharge.

DISCUSSION

As noted above, in the present petition applicants argue that the Notification Of Missing Requirements mailed on 21 April 2005 was never received. Section 711.03(c)(I)(A) of the MPEP sets forth the requirements for such a petition:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Here, the petition contains the required statements from the practitioner that the Notification Of Missing Requirements was not received and that a search of the file jacket and docket records indicates that the Notification Of Missing Requirements was not received. Applicants have also attached a copy of docket records which would have included a reference to the Notification Of Missing Requirements had such Notification been received.

Applicants have therefore satisfied the requirements of a grantable petition to establish the failure to receive the Notification Of Missing Requirements mailed 21 April 2005.

The declaration submitted by applicants with the present petition complies with 37 CFR 1.497 and, as noted above, the present submission also included the required surcharge payment. Accordingly, applicants have now submitted the requirements set forth in the Notification Of Missing Requirements.

CONCLUSION

Applicants' petition to confirm that the Notification Of Missing Requirements mailed 21 April 2005 was not received is **GRANTED**.

Applicant has now submitted the materials required by the Notification Of Missing Requirements, that is, a declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date. Accordingly, there is no need to re-mail the Notification Of Missing Requirements.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing treatment in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 24 October 2005.

Richard M. Ross
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31 OCT 2005

#4

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C. Bruce Hamburg
Jordan and Hamburg, LLP
122 East 42nd Street
New York, NY 10168

In re Application of	:	
YAMOTO, et al.	:	
U.S. Application No.: 10/508,427	:	DECISION ON PETITION
PCT No.: PCT/JP03/03270	:	
Int. Filing Date: 18 March 2003	:	UNDER 37 CFR 1.47(a)
Priority Date: 18 March 2002	:	
Attorney Docket No.: F-8399	:	
For: METHOD OF DEPOSITING CVD THIN FILM	:	

This decision is in response to the applicant's "PETITION UNDER 37 C.F.R. § 1.47" filed 11 October 2005 in the United States Patent and Trademark Office (USPTO) to accept the filed declaration without the signature of joint inventor Hisayoshi Yamoto.

BACKGROUND

On 18 March 2003, applicant filed international application PCT/JP03/03270 which claimed priority to an earlier Japanese application filed 18 March 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 September 2004.

On 20 September 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an application data sheet and a First preliminary amendment.

On 10 March 2005, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response.

On 11 October 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Hisayoshi Yamoto and a petition for a five-month extension of time. With the filing of the petition for a five-month extension of time, payment of the appropriate extension fee and certification that the mailing was deposited on 07 October 2005, the response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $200 petition fee required by 37 CFR 1.17(g); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant has satisfied items (1) and (3) above.

As to item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature...Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Applicant has provided a signed statement of facts from Mr. Hisao Fukumori accompanied by various email communications and English translations thereof as evidence of the joint inventor's refusal to execute the declaration. While Mr. Fukumori has firsthand knowledge of the actions of Mr. Yamoto, it is unclear from his statement and the exhibits that a complete set of application papers has been provided to the inventor. This is especially important in the present case as it appears that the inventor worked on more than one invention for K.K. Watanabe Shoukou. The email exhibits appear to be of a general nature rather than for this particular invention. Further, much of the discussion centers around the employee agreement without any showing that Mr. Yamoto understands to which invention his signature is currently being sought. This confusion seems to be the reason for the inventor having not yet executed the declaration. Based on the present evidence the actions of Mr. Yamoto seem to constitute a request for more information rather than a refusal within the context of 37 CFR 1.47(a). As such, applicant has not fully satisfied this item.

Regarding item (4), the filed declaration, and the previously filed application data sheet, identify the joint inventor as Mitsuru Fukagawa. However, the published international application lists the joint inventor as Masaki Kusuhara. Therefore, the declaration does not comply with 37 CFR 1.497.

In light of the above it is not possible to grant applicant's petition under 37 CFR 1.47(a) at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**

without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

#6

18 AUG 2006

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Jordan and Hamburg, LLP
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New York, NY 10168

In re Application of	:	
YAMOTO, et al.	:	
U.S. Application No.: 10/508,427	:	DECISION ON RENEWED
PCT No.: PCT/JP03/03270	:	
Int. Filing Date: 18 March 2003	:	PETITION UNDER
Priority Date: 18 March 2002	:	
Attorney Docket No.: F-8399	:	37 CFR 1.47(a)
For: METHOD OF DEPOSITING CVD THIN FILM	:	

This decision is in response to the applicant's "RENEWED PETITION UNDER 37 C.F.R. § 1.47" filed 03 April 2006 in the United States Patent and Trademark Office (USPTO) to accept the filed declaration without the signature of joint inventor Hisayoshi Yamoto.

BACKGROUND

On 31 October 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 03 April 2006, applicant filed the present renewed petition accompanied by a petition for three-month extension of time. With the filing of the petition for a three-month extension of time and payment of the appropriate fee, the renewed petition is considered timely filed.

DISCUSSION

As discussed in the decision mailed 31 October 2005, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $200 petition fee required by 37 CFR 1.17(g); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant previously satisfied items (1) and (3) above.

With the filing of the present renewed petition and supporting exhibits applicant has satisfied all of the concerns raised in the October, 2005 decision and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 18 March 2003 under 35 U.S.C. 363, and will be given a date of **11 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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18 AUG 2006

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Mr. Hisayoshi Yamoto
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In re Application of
YAMOTO, et al.
U.S. Application No.: 10/508,427
PCT No.: PCT/JP03/03270
Int. Filing Date: 18 March 2003
Priority Date: 18 March 2002
Attorney Docket No.: F-8399
For: METHOD OF DEPOSITING CVD THIN FILM

Dear Mr. Yamoto:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
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Office of PCT Legal Administration
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C. Bruce Hamburg
Jordan and Hamburg, LLP
122 East 42nd Street
New York, NY 10168

#4

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20 DEC 2005

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NEW YORK, NY 10168

In re Application of YAMOTO et al	:	
U.S. Application No.: 10/508,428	:	
PCT Application No.: PCT/JP03/03271	:	
Int. Filing Date: 18 March 2003	:	DECISION
Priority Date Claimed: 18 March 2002	:	
Attorney Docket No.: F-8398	:	
For: VAPORIZER, VARIOUS DEVICES USING THE SAME, AND VAPORIZING METHOD	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 24 October 2005.

BACKGROUND

On 18 March 2003, applicant filed international application PCT/JP03/03271, which claimed priority of an earlier Japan application filed 18 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 25 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 20 September 2004 (18 September 2004 was a Saturday).

On 20 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 October 2005, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the declaration filed with the petition is improper. Specifically, the name of the second inventor is listed on the declaration as "Mitsuru Fukagawa" but is listed as "Masaki Kusuhara" on the published international application.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Hisayoshi Yamoto refuses to sign the application papers. However, the petition does not sufficiently establish that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration). Furthermore, the petition does not contain adequate evidence of Yamoto's purported refusal to sign. The affidavit of Hisao Fukumori does not indicate that Yamoto made any express oral or written refusal to sign, and there is no documentary evidence that Yamoto was requested to return the signed application papers by a certain date and that failure to do so would be treated as a refusal to cooperate. Thus, would not be reasonable to conclude at the present time that Yamoto refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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05 APR 2006

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NEW YORK, NY 10168

In re Application of YAMOTO et al	:	
U.S. Application No.: 10/508,428	:	
PCT Application No.: PCT/JP03/03271	:	
Int. Filing Date: 18 March 2003	:	DECISION
Priority Date Claimed: 18 March 2002	:	
Attorney Docket No.: F-8398	:	
For: VAPORIZER, VARIOUS DEVICES USING THE SAME, AND VAPORIZING METHOD	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 23 March 2006.

BACKGROUND

On 18 March 2003, applicant filed international application PCT/JP03/03271, which claimed priority of an earlier Japan application filed 18 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 25 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 20 September 2004 (18 September 2004 was a Saturday).

On 20 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 October 2005, applicant filed a petition under 37 CFR 1.47(a).

On 20 December 2005, this Office mailed a decision dismissing the 24 October 2005 petition.

On 23 March 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (3) and (4) above.

With regard to item (1) above, the declaration filed with the petition is improper. Specifically, the name of the second inventor is listed on the declaration as "Mitsuru Fukagawa" but is listed as "Masaki Kusuhara" on the published international application. Although the renewed petition states that a report of name change was submitted to PCT officials, the DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which indicates that that name change has been accepted for recording. Applicant must provide either a copy of Form PCT/IB/306 or an appropriate petition under 37 CFR 1.497(d).

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Hisayoshi Yamoto refuses to sign the application papers. The petition sufficiently establishes that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Yamoto for signature. Specifically, the application papers were mailed to

Yamoto's representative and received on 24 January 2006 (see affidavit of Hisao Fukumori, ¶6 and Appendices I-III.) Furthermore, the petition contains adequate evidence of Yamoto's purported refusal to sign. In particular, Yamoto failed to respond to the mailing by the due date contained therein (see Fukumori's affidavit, ¶7.) Thus, it would be reasonable to conclude that Yamoto refuses to join in the application.

CONCLUSION

Because the renewed petition fails to satisfy item (1) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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20 JUN 2006

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In re Application of YAMOTO et al	:	
U.S. Application No.: 10/508,428	:	
PCT Application No.: PCT/JP03/03271	:	
Int. Filing Date: 18 March 2003	:	DECISION
Priority Date Claimed: 18 March 2002	:	
Attorney Docket No.: F-8398	:	
For: VAPORIZER, VARIOUS DEVICES USING THE SAME, AND VAPORIZING METHOD	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 07 June 2006.

BACKGROUND

On 18 March 2003, applicant filed international application PCT/JP03/03271, which claimed priority of an earlier Japan application filed 18 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 25 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 20 September 2004 (18 September 2004 was a Saturday).

On 20 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 October 2005, applicant filed a petition under 37 CFR 1.47(a).

On 20 December 2005, this Office mailed a decision dismissing the 24 October 2005 petition.

On 23 March 2006, applicant filed a renewed petition under 37 CFR 1.47(a).

On 05 April 2006, this Office mailed a decision dismissing the 23 March 2006 renewed petition.

On 07 June 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (2), (3) and (4) above.

With regard to item (1) above, in view of the copy of the Notification of the Recording of a Change (Form PCT/IB/306) filed with the present renewed petition, the declaration filed 24 October 2005 is proper.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 18 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 24 October 2005.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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20 JUN 2006

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Hisayoshi Yamoto
149-8, Tokawa, Hadano-shi
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In re Application of YAMOTO et al
U.S. Application No.: 10/508,428
PCT Application No.: PCT/JP03/03271
Int. Filing Date: 18 March 2003
Priority Date Claimed: 18 March 2002
For: VAPORIZER, VARIOUS DEVICES USING THE SAME, AND VAPORIZING METHOD

Dear Hisayoshi Yamoto:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Attorney Docket No.: F-8398

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2-27-08

Patent No. : 7,283,196
Ser. No. : 10/508,436
Inventor(s) : Bertil Helgee, et. al.
Issued : October 16, 2007
Title : LIQID CRYTAL DEVICE, A METHOD FOR PRODUCING A LIQUID CRYSTAL DEVCE AND A METHOD FOR CONTRLLING A LIQUID CRYSTAL DEVICE
Docket No. : 003301

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Buchanan, et. al.
P.O. Box 1404
Alexandria, Virginia 22313-1404

ej

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MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,283,196 :
Issue Date : October 16, 2007 :
Application No. 10/508,436 : ON PETITION
Filed: September 20, 2004 :
Attorney Docket No. 003301-164 :

This is a decision on the petition filed April 3, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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JUL 21 2009

OFFICE OF PETITIONS

In re Patent No.7,425,380	:	
Matoba, et al.	:	DECISION ON
Issue Date: September 16, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/508,448	:	OF
Filed: September 20, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 040302-0409	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R § 1.705", filed November 11, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred forty-eight (648) days to nine hundred ninety-eight (998) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 648 days.

On September 16, 2008, the above-identified application matured into US Patent No. 7,425,380 with a revised patent term adjustment of 648 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees aver that the correct number of days of Patent Term Adjustment is 998 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day."

Patentees contend that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap by 12 days as they occur on the same calendar days in both periods. It appears that patentees contend that this overlapping period is the 12 days running from September 21, 2007 to October 2, 2007. Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 1,031 days as these periods do not occur on the same days. Patentees state that they have recalculated the patent term adjustment under the court's interpretation of the PTA statute as follows: 1,031 (362 days of Three Year Delay + 681 days of examination delay - 12 days of overlap) days reduced by 33 days of applicant delay for a total patent term adjustment of 998 days.

The period of adjustment of 362 days, pursuant to 37 CFR 1.703(b), is calculated as the number of days beginning on the day after the date that is three years after the date on which the national stage commenced under 37 U.S.C. 371(b) or (f), September 21, 2007, and ending on the date the patent issued, September 16, 2008. Patentees assert that in addition to this 362-day period, they are entitled to a period of adjustment pursuant to 37 CFR 1.702(a)(1) of 681 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the application fulfilled the requirements of 35 U.S.C. 371 on September 20, 2004.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 33 days for applicant delay.

The Office agrees that as of the issuance of the patent on September 16, 2008, the application was pending three years and 362 days after the commencement of the national stage under 35 U.S.C. 371. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 681 days is correct. At issue is whether patentees should accrue 362 days of patent term

adjustment for the Office taking in excess of three years to issue the patent, as well as, 681 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 362 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to

> the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by

section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 20, 2004, to the date the patent issued on September 16, 2008. Prior to the issuance of the patent, 681 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 362 days for Office delay in issuing the patent overlap with the 681 days of examination delay. During that time, the issuance of the patent was delayed by 681 days, not 681 + 362 days. The Office took 14 months and 681 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 681 days of Office delay and the 33 days of applicant delay and the time allowed within the time frames for processing and examination, as of the

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

date the patent issued, the application was pending three years and 362 days. The Office did not delay 681 days and then an additional 362 days. Accordingly, 681 days of patent term adjustment (not 681 and 362 days) was properly entered because the period of delay of 362 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 681 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 681 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 362 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

28 JUL 2005

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In re Application of TIJSBERT CREEMERS (deceased) Application No.: 10/508,453 PCT No.: PCT/IB03/00814 Int. Filing Date: 27 February 2003 Priority Date: 26 March 2002 Attorney Docket no.: NL020248US For: DISPLAY DEVICE COMPRISING A LIGHT TRANSMITTING FIRST PLATE AND LIGHT-ABSORBING MEANS	:	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's "Response to Notice to File Missing Parts of Application" under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 23 May 2005.

BACKGROUND

On 21 March 2005, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 23 May 2005, applicant filed a response to the Notification with a declaration which was signed by inventors Peter Duine and Gerardus Van Gorkom and by the legal representative for deceased inventor Tijsbert Creemers including their respective country of citizenship, residency and mailing address..

DISCUSSION

The declaration filed on 23 May 2005 was executed by the legal representative, identifying all of the inventors as listed on the international application. This declaration included the country of citizenship, residency and mailing address for both the deceased inventor and his legal representative.

However, the declaration executed by the inventors has been altered. The USPTO does not accept a declaration that has been altered. Section 602.01 of the MPEP states the following:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not

consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

The changes made in the declaration were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by Peter Duine and Gerardus Van Gorkom and by the legal representative for deceased inventor Tijsbert Creemers is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

CONCLUSION

The declaration of inventors submitted by applicants on 23 May 2005 cannot be accepted as a proper response to the Notification of Missing Requirements at this time.

Applicants are required to submit a new declaration executed by inventors Peter Duine and Gerardus Van Gorkom and by the legal representative for deceased inventor Tijsbert Creemers **TWO (2) MONTHS** from the mail date of this decision or the time remaining under the 21 March 2005 Notification of Missing Requirements.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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24 OCT 2005
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DEC 15 2005
PATENT & TRADEMARK OFFICE

Philips Electronics North America Corporation
P O Box 3001
Briarcliff Manor NY 10510

OCT 27 2005

In re Application of
VAN GORKOM (Deceased)
Application No.: 10/508,453
PCT No.: PCT/IB03/00814
Int. Filing Date: 27 February 2003
Priority Date: 26 March 2002
Attorney Docket no.: PHNL020248 US
For: DISPLAY DEVICE COMPRISING A LIGHT TRANSMITTING FIRST PLATE...

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's Response to Notification of Missing Requirements filed in the United States Patent and Trademark Office (USPTO) on 29 September 2005 and is being treated as a request under 37 CFR 1.42.

BACKGROUND

On 21 March 2005, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 23 May 2005, applicant filed a response to the Notification with a declaration which was signed by inventors Peter Duine and Tijsbert Creemers and by the legal representative for deceased inventor Gerardus Van Gorkom including their respective country of citizenship, residency and mailing address. On 28 July 2005, a decision was mailed to applicant indicating that a new declaration was required because the declaration submitted had been altered.

On 29 September 2005, applicant submitted newly executed declarations.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal

representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declarations executed by Peter Duine and Tijsbert Creemers meet the requirements of 37 CFR 1.497(a). However, the execution by the legal representative for deceased inventor Gerardus Van Gorkom does not meet the requirements of 37 CFR 1.497(b). Although the declaration identifies H. J. Kunnen as the legal representative of deceased inventor Gerardus Van Gorkom , the declaration is defective because it does not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497.

What is required is a declaration, identifying all inventors and executed by H. J. Kunnen, which identifies hin as legal representative for deceased inventor Gerardus Van Gorkom. The declaration must provide legal representative's citizenship, residency and mailing address and identify the deceased inventor, providing his citizenship, former residency and mailing address on the declaration.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

The declaration by the legal representative for deceased inventor Gerardus Van Gorkom submitted on 29 September 2005 cannot be accepted as a proper response to the Notification of Missing Requirements at this time.

Applicants are required to submit a new declaration executed by the legal representative for deceased inventor Gerardus Van Gorkom **TWO (2) MONTHS** from the mail date of this decision or the time remaining under the 21 March 2005 Notification of Missing Requirements.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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#9

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In re Application of
VAN GORKOM (Deceased)
Application No.: 10/508,453
PCT No.: PCT/IB03/00814
Int. Filing Date: 27 February 2003
Priority Date: 26 March 2002
Attorney Docket no.: PHNL020248 US
For: DISPLAY DEVICE COMPRISING A LIGHT TRANSMITTING FIRST PLATE...

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's submission entitled "Decision on Request Under 37 CFR 1.42" filed in the United States Patent and Trademark Office (USPTO) on 15 December 2005.

BACKGROUND

On 23 May 2005, applicant filed a response to the 21 March 2005 Notification of Missing Requirements with a declaration which was signed by inventors Peter Duine and Tijsbert Creemers and by the legal representative for deceased inventor Gerardus Van Gorkom including their respective country of citizenship, residency and mailing address. On 28 July 2005, a decision was mailed to applicant indicating that a new declaration was required because the declaration submitted had been altered.

On 29 September 2005, applicant submitted newly executed declarations. On 24 October 2005, a decision dismissing the petition was mailed indicating that the declaration was unacceptable under 37 CFR 1.497(b). Petitioner was advised to file a declaration, identifying all inventors and executed by H. J. Kunnen, identifying him as legal representative for deceased inventor Gerardus Van Gorkom. The declaration must provide legal representative's citizenship, residency and mailing address and identify the deceased inventor, providing his citizenship, former residency and mailing address on the declaration.

On 15 December 2005, Petitioner filed a newly executed declaration.

DISCUSSION

The declaration, identifies all inventors and is executed by H. J. Kunnen, identifying him as legal representative for deceased inventor Gerardus Van Gorkom. The declaration provides the

citizenship, residency and mailing address for all inventors including the deceased inventor and provides the legal representative's citizenship, residency and mailing address.

Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED.** The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 15 December 2005.

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01 SEP 2005

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In re Application of :
BLUM et al. :
U.S. Application No.: 10/508,462 :
PCT No.: PCT/US03/0894 : DECISION ON PETITION
Int. Filing Date: 21 March 2003 :
Priority Date: 21 March 2002 :
Attorney Docket No.: BKL120(e)US :
For: METHODS FOR CONTROLLING CRYSTAL GROWTH, CRYSTALLIZATION, STRUCTURES AND PHASES IN MATERIALS AND SYSTEMS :

This decision is in response to applicants' facsimile communication dated 26 August 2005, which is being treated as a Petition under 37 CFR 1.181 and 37 CFR 1.137(b).

BACKGROUND

On 21 March 2003, applicants filed international application PCT/US03/0894 which claimed a priority date of 21 March 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 21 September 2004.

On 20 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: a check in the amount of $365 and a copy of the international application.

On 13 April 2005, the United States Designated/Elected Office (DE/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application is abandoned for failure to pay the full basic national fee prior to the expiration of 30 months from the priority date.

On 26 August 2005, applicants submitted a facsimile communication which included: a copy of the petition to revive dated 06 June 2005, a postcard receipt dated 06 June 2005; and declaration of inventors dated 06 June 2005.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicants state in their present petition that the basic national fee, the petition to revive under 37 CFR 1.137(b), and declaration were received by the USPTO on 06 June 2005. A review of the application file reveals that the papers are not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, application number, and attorney docket number. The receipt itemizes: the basic national fee; the petition to revive under 37 CFR 1.137(b); and a declaration executed by the inventors. The receipt is stamped "Rec'd. PCT/PTO JUN. 06, 2005" across its face is sufficient to indicate that the basic national fee; the petition to revive under 37 CFR 1.137(b); and a declaration were in fact received in the Office on 06 June 2005.

B. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the payment of the basic national fee.

As to Item (2), the appropriate petition fee of $750.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" complies with 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is 06 June 2005.

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31 JAN 2008

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In re Application of	:	DECISION ON
NIENSTEDT et al	:	
Application No.: 10/508,471	:	
PCT No.: PCT/EP03/02862	:	
Int. Filing Date: 19 March 2003	:	PETITION UNDER
Priority Date: 22 March 2002	:	
Attorney's Docket No.: GE Bayer 1617- WCG	:	
For: COMPOSITION CONTAINING ...	:	
AND USE OF THE SAME	:	37 CFR 1.181

This Decision is in response to applicants' "PETITION UNDER 37 CFR 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT" filed on 04 December 2007, which request that the above-identified application's declaration was timely filed on 25 May 2005 by facsimile.

BACKGROUND

On 19 March 2003, this international application was filed, which claimed priority of an earlier application filed 22 March 002.

On 21 September 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration of the inventors accompanied the transmittal letter.

On 25 March 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by international application number and international filing date. The Notice stated that the above must be furnished within the time period set forth. The notification set two (2) months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 04 December 2007, applicants submitted the instant petition with a copy of the declaration allegedly timely filed by facsimile on 25 May 2005.

DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants have satisfied items (1), and (2) but not item (3) under 37 CFR 1.8(b).

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence and certificate of transmission.

With regard to item (3) above, section 512 of the MPEP states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission." The present petition, which is signed by William C. Gerstenzang, states that the attached materials are copies of the materials transmitted by facsimile. However, Mr. Gerstenzang is not the person who executed the Certificate of Transmission for the 09 May 2005 transmission, and he does not state "how he has firsthand knowledge of the previous mailing or transmission," as required by the MPEP (the petition does not include a confirming statement from Zsuzsa Schuster, the person who signed the Certificate of Transmission).

Based on the above, the present submission does not satisfy the requirement of 37 CFR 1.8(b)(3). Accordingly, on the present record it cannot be concluded that the declaration was included with the present petition were originally filed by facsimile on 09 May 2005 as a timely response to the Notification Of Missing Requirements.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 and 1.8(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above and in the MPEP. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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#8

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25 MAR 2008

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In re Application of	:	DECISION ON
NIENSTEDT et al	:	
Application No.: 10/508,471	:	
PCT No.: PCT/EP03/02862	:	
Int. Filing Date: 19 March 2003	:	PETITION UNDER
Priority Date: 22 March 2002	:	
Attorney's Docket No.: GE Bayer 1617- WCG	:	
For: COMPOSITION CONTAINING ...	:	
AND USE OF THE SAME	:	37 CFR 1.181

This Decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT" filed on 05 March 2008, which request that the above-identified application's declaration was timely filed, and the withdrawal of the Notice of Abandonment mailed on 26 July 2005.

BACKGROUND

In a decision from this on Office on 31 January 2008, the petition filed under 37 CFR 1.181 was dismissed. The decision stated that applicants did not meet item (3) under 37 CFR 1.8(b) because no statement was provided from a person that had first hand knowledge.

On 05 March 2008, applicants filed the current renewed petition with included a statement from Zsuzsa Schuster.

DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants has now satisfied item (3), thus satisfying item (1) – (3) under 37 CFR 1.8(b).

The certificate of mailing under 37 CFR 1.8 is valid for the declaration because a statement has been provided by Zsuzsa Schuster and can be use as a basis for a timely filing in response to the Notification of Missing Requirements mailed on 25 March 2005.

Accordingly, petitioner's response- the declaration filed on **09 May 2005**- is considered timely and is the date of receipt at USPTO.

The date of receipt for the Declaration is 09 May 2005.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The NOTICE OF ABANDONMENT, mailed 26 July 2005 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **09 May 2005**.

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OCT 16 2007

TECHNOLOGY CENTER 3600

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In re Patent No. BOUSSON, BENJAMIN
Appl No.: 10/508,487
Filed: September 21, 2004
For: Mechanism for Tensioning a Compensation Spring for a Closing or Sun Protection Installation

DECISION ON PETITION FILED UNDER *37 CFR 1.181*

This is a decision on the petition filed April 27, 2007 requesting that the finality of the final rejection be withdrawn and to withdraw the election by original presentation set forth in the final rejection since the applicant has not had a chance to elect an invention for prosecution. There is no fee required for this petition.

The petition is **GRANTED**.

In response to the present petition, a review of the file was made. The file history shows that on October 13, 2006 a non-final office action rejecting all of claims 1-15 was mailed. On January 16, 2007 the applicant filed a response including an amendment to the non-final office action. In response to the amendment, the examiner then mailed out a final rejection on April 16, 2007. In response to the final rejection, the applicant filed this petition on April 27, 2007 requesting that the finality of the office action be withdrawn and the election by original presentation also be withdrawn since the applicant has not had a chance to elect an invention for prosecution. After receiving the petition, the examiner mailed an advisory action on May 14, 2007 indicating that the restriction requirement and the finality of the office action were proper and would not be withdrawn. Finally, the applicant then filed an after final amendment that remains pending. The office would like to apologize for the examiner sending the advisory action of May 14, 2007 because the examiner does not have the authority to respond to 37 CFR 1.181 petitions. That advisory action is hereby **VACATED**.

After reviewing the file history, the examiner's non-final office action rejected claims 1-15 under 35 USC 112, first paragraph and second paragraph. Claims 1-3, 5, 10 and 13 were also rejected under 35 USC 102(b) as being anticipated by Noyes 225,857. In the 112, second paragraph rejection, the examiner stated that claim 1 was indefinite because claim 1 recites two different

embodiments in a single claim, i.e. the location of the stop spring (1) between the compensating spring and the fixed structure or (2) between the compensating spring and the screen. In the rejection, it does not appear that the examiner clearly indicated which embodiment he was rejecting in view of the prior art to Noyes '857. Thus, in response to the office action, the applicant filed the amendment on January 16, 2007 amending the claims to correct the 112, second paragraph problems. The applicant also added new claims 16 and 17. In response to this amendment in the examiner's final rejection, the examiner rejected claims 1, 2, 5 and 13-15 under 35 USC 102(b) in view of Mortellite 4,523,620, objected to claims 3, 4, and 6-12, and withdrew from consideration claims 16 and 17 as being independent or distinct from the invention originally claimed. After receiving the final rejection, the applicant filed the present petition. The examiner then sent out the advisory action addressing this petition and stating that it was clear from the action that only one embodiment was addressed regarding the prior art, and that the amendments made to the claims are what motivated the examiner to write the new grounds of rejection. Therefore, the examiner took the position that the final rejection and election by original presentation was proper.

However, after a review of the office actions, it is believed that it is not clear from the actions which embodiment the examiner intended to reject based on the prior art. Initially, for there to be a proper withdrawal of claims by original presentation made by an examiner, there must be a clearly set forth restriction on the record to allow the applicant to know upon what grounds the restriction is based and whether or not to traverse the restriction. There is no such restriction on the record here. Secondly, if there were 2 patentably distinct inventions covered by original claims, it is the applicant that is empowered to elect which one to examine, not the examiner. In the instant case, it appears that the examiner chose for the applicant which invention to pursue. Thus, since the applicant did not know the examiner was only examining and rejecting one embodiment, the applicant did not have a proper chance to elect which invention they wanted prosecuted.

In conclusion, based on the lack of clarity in the office actions, and for the additional reasons set forth above, the application will be forwarded to the examiner so that a new office action can be mailed to applicant. The new office action will address the newly submitted claims. Further, the finality of the final office action is herby **VACATED** so that the new action can be mailed. As pointed out above, the Advisory Action of May 4, 2007 has also been vacated. The election by original presentation is also hereby **VACATED**. However, applicant should keep in mind that the new office action could be made final due to the changes made to the original claims and the newly added claims. The examiner will make the decision of whether to make the next office action final or not. This petition decision has no affect on whether the next office action is final or non-final. This decision only pertains to the current final rejection.

SUMMARY: The petition is **GRANTED.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner Brian Glessner at 571-272-6843.

Wynn Coggins
Director
Patent Technology Center 3600
571-272-5350

BG/SM

SM

21 MAR 2006
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IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA PA 19103

In re Application of	:	
ISHIGAKI, Takeshi et al.	:	
Application No.: 10/508,500	:	DECISION ON
PCT No.: PCT/JP03/03324	:	
Int. Filing Date: 19 March 2003	:	REQUEST
Priority Date: 22 March 2002	:	
Attorney's Docket No.: HIR-04-1236	:	UNDER 37 CFR 1.42
For: SPIRO DERIVATIVES ... ACTIVE INGREDIENT	:	

This decision is in response to applicant's submission of a declaration under 35 USC 371 filed in the United States Patent and Trademark Office on 07 October 2005. The declaration includes an indication that inventor Koji Taniguchi is deceased. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 19 March 2003, applicant filed international application PCT/JP03/03324, claiming a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The deadline for entry into the national stage in the United States was 22 September 2004.

On 21 September 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 September 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 07 October 2005, applicant submitted an executed declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, the declaration is executed by the legal representative for the deceased inventor. It provides the necessary information for the deceased inventor and the legal representative. The declaration complies with both 37 CFR 1.497(a)-(b) and 37 CFR 1.42

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has a date of 07 October 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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BAYER CROPSCIENCE LP
Patent Department
2 T .W. ALEXANDER DRIVE
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Dieter Feucht	: DECISION ON REQUEST FOR
Patent Number	: 7612017	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,503	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1268** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

27 SEP 2004

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Jacobson Holman
400 Seventh Street, N.W.
Washington, DC 20004

In re Application of FARNETI	:	
U.S. Application No.: 10/508,508	:	
PCT Application No.: PCT/IT01/00354	:	
Int. Filing Date: 04 July 2001	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: P70091US0	:	
For: MACHINE TO COVER ARTICLES OF VARIOUS TYPE, PARTICULARLY BOOK COVERS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed 16 September 2004.

BACKGROUND

On 04 July 2001, applicant filed international application PCT/IT01/00354. A copy of the international application was communicated to the USPTO from the International Bureau on 16 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 04 January 2004.

International application PCT/IT01/00354 became abandoned as to the United States for failure to timely pay the basic national fee.

On 16 September 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the filing of a continuation application under 35 U.S.C. 111 is a proper reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in filing this application in the United States, from a 30 month date due date until the filing of a grantable Petition under 37 C.F.R. 1.137(b) was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

International application PCT/IT01/00354 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present U.S. continuation application number 10/508,508.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will thereafter be forwarded to the Office of Initial Patent Examination for further processing and review as a continuation application filed under 35 U.S.C. 111.

Bryan Tung
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PCT Legal Office

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DEC 10 2007

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
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WASHINGTON DC 20001-4413

In re Application of :
Christian Straka :
Serial No.: 10/508,509 : PETITION DECISION
Filed: September 21, 2004 :
Attorney Docket No.: 08358.0003 :

This is in response to the petition under 37 CFR 1.144, filed November 29, 2007, requesting withdrawal of an improper Lack of Unity requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on September 21, 2004, and contained claims 1-21, as amended prior to first action. In a first Office action, mailed January 22, 2007, the examiner set forth a Lack of Unity requirement, as follows:

Group I, claims 1 and 10-21, drawn to a method of determining hematopoietic cytocapacity in a subject;
Group II, claims 2-5, drawn to a method for selecting a suitable antimicrobial prophylaxis;
Group III, claim 6, drawn to a method for selecting suitable prophylaxis or therapy for neutropenic fever in a subject;
Group IV, claim 7, drawn to a method for selecting a suitable amount of hematopoietic stem cells to be transfused for the therapy;
Group V, Claim 8, drawn to a method for selecting a suitable amount of hematopoietic growth factor for the treatment of a subject; and
Group VI – Claims 9-21, drawn to a method of preparing a diagnostic composition for diagnosing susceptibility to a disease.

The examiner stated that Group I was found to have no special technical feature in the International Search Report, citing Porrata et al.

Applicant replied on March 22, 2007, amending claims 10-21 and electing Group I for examination purposes and traversing the Lack of Unity requirement as in error and disputing the examiner's statement of what the International Search Report stated. Applicant argued that steps

(a) and (b) of claim 1 were common to all claims and constituted the special technical feature linking them.

The examiner mailed a new Office action to applicant on May 29, 2007, maintaining the Lack of Unity requirement and making it Final on the basis that multiple products or processes are being claimed and that each product or process defines a separate invention. Claims 1 and 10-21 were rejected under 35 U.S.C. 112, second paragraph, as indefinite and under 35 U.S.C. 112, first paragraph, as lacking enablement

Applicant filed a reply to the Office action and this petition of the Lack of Unity requirement on November 29, 2007.

DISCUSSION

Applicant argues that the examiner has failed to properly follow PCT guidelines in determining Lack of Unity by failing to determine the proper special technical feature common to all claims. Claims 1 and 9 are the only independent claims in the application and Lack of Unity is to be assessed taking into account the independent claims only. Claim 1 is directed to a method for determining the hematopoietic cytocapacity of a patient undergoing chemotherapy and comprises two steps. Claim 9 (originally to a method of making) has been amended to a diagnostic composition, *per se,* for diagnosing susceptibility to a disease, disorder or complication in a subject having undergone cytotoxic chemotherapy. Thus the two independent claims are linked by cytotoxic chemotherapy and its effects on a subject. Groups II-V of the above Lack of Unity requirement are directed to claims dependent on claim 1 and more narrowly define the type of treatment or condition being treated or assessed and thus include the special technical feature of claim 1.

PCT guidelines for determining Unity or Lack thereof specifically allow for the grouping together claims of different categories of invention, such as method and composition where there is a common special technical feature shared between them, as is the situation here.

DECISION

The petition is **GRANTED.** The Lack of Unity requirement is withdrawn and an action on the merits of all the claims will be forthcoming.

The application will be forwarded to the examiner for consideration of applicants' response of November 29, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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1700 DIAGONAL ROAD
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ALEXANDRIA, VA 22314

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of :
Roni Flieswasser, et al. :
Application No. 10/508,526 : ON PETITION
Filed: July 11, 2005 :
Attorney Docket No. 4721-005 :

This is a decision in response to the petition, filed March 20, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Oren Reches appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Reches desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 18, 2007. This decision precedes the mailing of a Notice of Abandonment. On March 20, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the amendment filed March 20, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney or agent of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: OREN RECHES
211 NORTH UNION STREET
SUITE 100
ALEXANDRIA, VA 22314

27 DEC 2004

#3

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of YAMAOKA et al	:	
U.S. Application No.: 10/508,528	:	
PCT Application No.: PCT/JP03/04254	:	DECISION
Int. Filing Date: 03 April 2003	:	
Priority Date Claimed: 08 April 2002	:	
Attorney Docket No.: 01580.000024	:	
For: PHOTOPOLYMERIZABLE COMPOSITION	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.47" filed 06 December 2004.

BACKGROUND

On 03 April 2003, applicant filed international application PCT/JP03/04254, which claimed priority of an earlier Japan application filed 08 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 16 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 08 October 2004.

On 21 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 December 2004, applicant filed the present petition under 37 CFR 1.47(a) along with an executed declaration.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Kyoko Katagi refuses to sign the application papers. However, applicant has not demonstrated that a bona fide attempt was made to present a copy of the application papers to Ms. Katagi for signature. In particular, although a letter was purportedly sent to Ms. Katagi's last known address on 20 April 2004, it is apparent that the letter was not successfully delivered to Ms. Katagi. Petitioner has not provided a copy of the correspondence together with any necessary English translation and has not specified the reason (e.g. address no longer valid, delivery refused, etc.) that correspondence was returned. Additionally, petitioner has not provided a copy and translation of a letter purportedly sent to Ms. Katagi on 25 August 2004 and has not provided proof that the letter was successfully delivered. Furthermore, although the petition states that Ms. Katagi explicitly refused to sign the application papers (see p.2, first paragraph, of the petition), applicant has not provided a statement from the person to whom the alleged refusal was made and has not established that a copy of the application papers was presented to Ms. Katagi prior to such refusal. Thus, it would not be reasonable to conclude at the present time that Ms. Katagi refuses to join in the application.

With regard to item (3) above, applicant payment of $130.00 has been received. Applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Thus, $70.00 will be charged to Deposit Account No. 06-1205 as authorized in the petition.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
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17 MAR 2005

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In re Application of YAMAOKA et al	:	
U.S. Application No.: 10/508,528	:	
PCT Application No.: PCT/JP03/04254	:	DECISION
Int. Filing Date: 03 April 2003	:	
Priority Date Claimed: 08 April 2002	:	
Attorney Docket No.: 01580.000024	:	
For: PHOTOPOLYMERIZABLE COMPOSITION	:	

This is in response to applicant's "Request for Reconsideration of Petition" filed 25 February 2005.

BACKGROUND

On 03 April 2003, applicant filed international application PCT/JP03/04254, which claimed priority of an earlier Japan application filed 08 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 16 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 08 October 2004.

On 21 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 December 2004, applicant filed a petition under 37 CFR 1.47(a) along with an executed declaration.

On 27 December 2004, this Office mailed a decision dismissing the 06 December 2004 petition.

On 25 February 2005, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Kyoko Katagi refuses to sign the application papers. Applicant has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Ms. Katagi for signature (see affidavit of Ikuo Shimizu, item 2). Furthermore, applicant has sufficiently established that Ms. Katagi refuses to sign. Specifically, Ms. Katagi made an express oral refusal to execute the application papers during a telephone conversation on 12 February 2005 (see Shimizu affidavit, item 4). Thus, it can be concluded with reasonable certainly that Ms. Katagi refuses to join in the application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 03 April 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 December 2004.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

17 MAR 2

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Kyoko Katagi
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In re Application of YAMAOKA et al
U.S. Application No.: 10/508,528
PCT Application No.: PCT/JP03/04254
Int. Filing Date: 03 April 2003
Priority Date Claimed: 08 April 2002
For: PHOTOPOLYMERIZABLE COMPOSITION

Dear Kyoko Katagi:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Attorney Docket No.: 01580.000024

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/24/08

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10508528 Patent No.: 7368224 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

v**Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE Cynthia H Kelly Art Unit 1795

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Deleted: E

14 JUL 2005

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Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

In re Application of	:	
OLAFSSON, Sveinn	:	
Application No.: 10/508,532	:	
PCT No.: PCT/IS03/00015	:	DECISION
Int. Filing Date: 25 March 2003	:	
Priority Date: 25 March 2002	:	
Attorney Docket No.: OLAF3002/JEK	:	
For: METHOD AND APPARATUS FOR PROCESSING NANOSCOPIC STRUCTURES	:	

This decision is in response to applicant's "Non-Fee Petition under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 26 May 2005, which is being treated as a Request for Corrected Notification of Acceptance under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495. No petition fee is due.

BACKGROUND

On 27 September 2004, applicant timely filed a request to enter into the national stage under 35 U.S.C. 371 along with, among other things, the appropriate basic national filing fee, a copy of the international application, an application data sheet; a copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase; and a preliminary amendment.

On 27 April 2005, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 27 September 2004. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 27 September 2004.

On 26 May 2005, applicant filed the present request which included a combined declaration and power of attorney executed by sole inventor, Sveinn Olaffsson.

DISCUSSION

Applicant states in their present request that,"[o]n April 27, 2005, the USPTO issued a Filing Receipt and a Notice of Acceptance for the above application. These forms were issued in error since a signed Declaration/Power (of Attorney) was not filed in the application." The international application furnished by the International Bureau included a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America executed by Sveinn Olaffson, however, the

executed Declaration (of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America) was not in compliance with 37 CFR 1.497(a)-(b). Specifically, the declaration was defective pursuant to 37 CFR 1.497(a)(2), in that, the declaration does not identify the international application number to which it is directed. (See Administration Instruction under the Patent Cooperation Treaty Section 214(a).) Therefore, the Notification of Acceptance mailed 27 April 2005 identifying the 35 U.S.C. 371(c) date as 27 September 2004 was mailed in error and is hereby vacated.

The declaration filed on 26 May 2005 is in compliance with 37 CFR 1.497(a)-(b). The application has an international filing date of 25 March 2003 under 35 U.S.C. 363 and a date of 26 May 2005 under 35 U.S.C. 371(c).

Deposit Account No.02-0200 has been charged a $130.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

CONCLUSION

Applicant's request for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 27 April 2005 is hereby **VACATED**.

The application has an international filing date of 25 March 2003 under 35 U.S.C. 363 and a date of **26 May 2005** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of **26 May 2005** under 35 U.S.C. 371(c).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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16 MAR 2007

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of
BOERNER et al.
Application No.: 10/508,537
PCT No.: PCT/EP03/02162
Int. Filing Date: 03 March 2003
Priority Date: 04 April 2002
Atty. Docket No.: 257571US0XPCT
For: BISPHOSPHINES AS BIDENTATE LIGANDS

DECISION

This decision is issued in response to applicants' "Request for Corrected Notice of Acceptance" filed 06 July 2005; applicants' "Request for Corrected Filing Receipt" filed 18 August 2005, and applicants' (Third) "Request for Corrected Filing Receipt" filed 04 January 2006. No petition fee is due.

BACKGROUND

On 03 March 2003, applicants filed international application PCT/EP03/02162 which claimed a priority date of 04 April 2002. A copy of the international application, which included a copy of the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase, was communicated to the United States Patent and Trademark Office from the International Bureau on 16 October 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 October 2004.

On 27 September 2004, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv); and a preliminary amendment.

On 05 May 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 May 2005, applicants filed a copy of the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase.

On 10 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 12 May 2005 and a 35 U.S.C. 371 completion date of 12 May 2005.

On 06 July 2005, applicants filed "Request for Corrected Notice of Acceptance."

On 18 August 2005, applicants filed "Request for Corrected Filing Receipt." Subsequently, applicants filed a (third) "Request for Corrected Filing Receipt" on 04 January 2006.

DISCUSSION

Applicants request a corrected filing date (or 371(c) date) from 12 May 2005 to 27 September 2004. The actual filing date of the present application is the international filing date, i.e., 03 March 2003. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) A review of the application file reveals that the basic national fee, a copy of the international application, and an executed declaration (Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv)) were filed with the USPTO on 27 September 2004, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage was completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 27 September 2004 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 27 September 2004. (See MPEP section 1893.03(b)).

CONCLUSION

Applicants' request for a corrected filing receipt under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 10 June 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 27 September 2004 under 35 U.S.C. 371(c). Thereafter, the application will be forwarded to Art Unit 1621.

Anthony Smith Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,540	12/30/2004	Yuichi Nagahara	P25018	7553

7055 7590 09/15/2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
MAI, TAN V

ART UNIT	PAPER NUMBER
2193	

NOTIFICATION DATE	DELIVERY MODE
09/15/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

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Bruce H. Bernstein
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of:
Yuichi NAGAHARA
Appl. No.: 10/508,540
Filed: September 27, 2004
For: RANDOM NUMBER GENERATING METHOD BASED ON MULTIVARIATE NON-NORMAL DISTRIBUTIONS, PARAMETER ESTIMATION METHOD THEREOF, AND APPLICATION TO SIMULATION OF

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on 27 August 2008, to expunge Information Disclosure Statement submitted on 30 December 2004.

The petition is **GRANTED**.

Petitioner requests that the IDS submitted on 30 December 2004 be expunged from the record. Petitioner states that the IDS was unintentionally cited and submitted and states that the failure to obtain the return could cause irreparable harm. The petition fee set forth in 37 CFR § 1.17(g) will be charged to Deposit Account No. 19-0089 (note that a check No. 53508 was never cashed).

The expunged documents have been closed from public view on 02 March 2005 and will not be returned to applicant.

It is noted that the instant application has been published on 26 May 2005. Thus, the aforementioned IDS submitted on 30 December 2004 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Applicant is required to retain the expunged information for the life of any patent, which issues on the above-identified application

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

13 JAN 2006

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#5

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

In re Application of TSCHANTZ et al :
U.S. Application No.: 10/508,578 :
PCT Application No.: PCT/US03/07676 :
Int. Filing Date: 12 March 2003 : DECISION
Priority Date Claimed: 12 March 2002 :
Attorney Docket No.: 856-013-1-1 :
For: INFLATABLE DUNNAGE BAG WITH :
PROTECTED INFLATOR VALVE :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 09 January 2006.

BACKGROUND

On 12 March 2003, applicant filed international application PCT/US03/07676, which claimed priority of an earlier United States application filed 12 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 13 September 2004 (12 September 2004 was a Sunday).

On 13 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the full basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/US03/07676 became abandoned as to the United States for failure to timely pay the basic national fee.

On 09 January 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

26 APR 2006

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

In re Application of	:	
HAUSWIRTH et al.	:	
Application No.: 10/508,580	:	DECISION ON
PCT No.: PCT/US03/08667	:	
Int. Filing: 20 March 2003	:	PETITION UNDER
Priority Date: 20 March 2002	:	
Attorney Docket No.: 36689.251	:	37 CFR 1.181
For: RAAV VECTOR COMPOSITIONS AND METHODS FOR THE TREATMENT OF CHOROIDAL NEOVASCULARIZATION	:	

This is a decision on applicants' Submission, which was filed in the United States Patent and Trademark Office (USPTO) on 24 August 2005 and resubmitted via facsimile on 12 April 2006. The communication is being treated as a petition under 37 CFR 1.182. A petition fee of $400 is required and charged to applicant's deposit account.

BACKGROUND

On 20 September 2004, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 21 February 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 24 August 2005, applicant filed a response to the Notification of Missing Requirements including "executed inventors declarations (6 pages)". The transmittal letter that accompanied the Response identified an incorrect U.S. application (11/055,497) and the papers were directed to that application.

Upon inquiry to the PCT Help Desk, applicant was informed that the Response filed on 24 August 2005 was not located in application file 10/508,580. On 12 April 2006, applicant filed copy of the originally filed papers including an itemized USPTO date-stamped postcard indicating that 6 pages of declarations were filed in the USPTO. Applicant requests the acceptance of the copies of the declarations, in lieu of the originally filed papers.

DISCUSSION

The originally filed declarations are not located in application 10/508,580. However, a

review of application 11/055,497 reveals that the declarations submitted on 24 August 2005 are found therein.

Applicants submission on 12 April 2006 is being treated as a petition under 37 CFR 1.182 requesting rectification of the incorrect U.S. application no. to identify the correct U.S. application no. as 10/508,580 on the transmittal letter, which accompanied the Response to the Notification of Missing Requirements. Per applicant's authorization, applicant's deposit account will be charged the $400 petition fee and the U.S. application number on the Response will be corrected to 10/508,580.

A review of the declarations reveals that the declarations identify the inventors, and state the residency, citizenship and mailing address of the inventors. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**. The petition fee of $400 will be charged to applicant's deposit account.

The declarations originally submitted on 24 August 2005 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **24 August 2005.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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Date Mailed : 11/08/07

Patent No. : 7271550 B2
Patent Issued : 09/18/07
Docket No. : **2863-1-003PCT/US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

In the title, it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-308-9390 #112 or (703) 305-8309

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

LMN

#7

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10 JUL 2006

OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901

In re Application of	:	DECISION ON
GILL, Kanwaljit Singh	:	
Application No.: 10/508,599	:	PETITION UNDER
PCT No.: PCT/GB03/01338	:	
Int. Filing Date: 20 March 2003	:	37 CFR § 1.47(b)
Priority Date: 22 March 2002	:	
Attorney Docket No.: 0001712USU/2282	:	
For: UNDERCUP INSERT MEMBER	:	

This is a decision on applicant's petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 08 December 2005.

BACKGROUND

On 20 March 2003, applicant filed international application PCT/GB03/01338, which designated the US and claimed a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2004.

On 22 September 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 08 December 2005, applicant submitted the instant petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*: a petition/fee for a five month extension of time; the surcharge under 37 CFR 1.492(e); and a declaration of the inventor.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As to item (1), the petition fee of $200 has been charged to Deposit Account 01-0467. Thus, item (1) has been met.

Items (3), (4), and (6) have also been met.

Item (2) has not been met. MPEP § 409.03(d) states in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. No firsthand statement of facts from the person presenting the application papers *before* the refusal has been provided. Nor has a statement of facts by the person to whom the oral refusal was made been provided. (Exhibit VI seems to imply that an oral refusal was made.)

Item (5) has not been met. Although an assignment has been provided assigning international application PCT/GB03/001338 "including any patent(s) which are based on or claim priority from such patent application or from patents granted pursuant to such patent application" from B.G. Technologies to Courtalds Textiles (Exhibit III), there is no assignment from inventor Kanwaljit Singh Gill to B.G. Technologies. If the application was assigned by inventor Gill to B.G. Technologies, a copy of the assignment must be submitted. It is not clear if Exhibit II is intended as such an assignment. Even if it is intended as such, only two pages of that agreement are included, neither of which is a signature page. Also, it is not clear from either of these two pages whether the agreement relates to the instant application. If petitioner is attempting to show that there was an employment agreement where inventor Gill as an employee agreed to assign all inventions made during his employment to his employer, a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by B.G. Technologies must be provided.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

EXHIBIT VIII.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	GILL, Kanwaljit Singh
Serial No:	10/508,599 (National Stage Filing of PCT/GB03/01338)
Filed:	September 22, 2004
Title:	UNDERCUP INSERT MEMBER
Examiner:	Not Yet Assigned
Art Unit:	Not Yet Assigned
Confirmation No.:	7880
Customer No.:	27,623

Attorney Docket No.: 0001712USU

DECLARATION

I, Joanne A. Romaniello, declare the following:

That I deposited a parcel with Federal Express (Tracking No. 7195118008) on October 7, 2005. The parcel contained a combined declaration and power of attorney, an assignment and the originally filed application and a preliminary amendment. The parcel was addressed to Mr. Kanwaljit Singh Gill at the following address:

6 Maple Grove
Breaston, Derby
DE72 3BN
United Kingdom

That I deposited a parcel with Federal Express (Tracking No. 719559117994) on October 7, 2005. The parcel contained a combined declaration and power of attorney, an assignment and the originally filed application and a preliminary amendment. The parcel was addressed to Mr. Kanwaljit Singh Gill at the following address:

B G Technologies (UK) Limited
Unit 2 Aerial Way
Hucknell Business Park
Watnall Road, Hucknall
Notts. NG15 6DW

I, Joanne A. Romaniello, as head paralegal for Ohlandt, Greeley, Ruggiero and Perle, L.L.P., hereby state, under penalty of perjury, that all of the above statements are true.

Joanne A. Romaniello

November 29, 2005

Joanne A. Romaniello

Date

EXHIBIT IX.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	GILL, Kanwaljit Singh
Serial No:	10/508,599 (National Stage Filing of PCT/GB03/01338)
Filed:	September 22, 2004
Title:	UNDERCUP INSERT MEMBER
Examiner:	Not Yet Assigned
Art Unit:	Not Yet Assigned
Confirmation No.:	7880
Customer No.:	27,623

Attorney Docket No.: 0001712USU

Communication

Commissioner for Patents
Washington, DC 20231

Dear Sir:

Courtaulds is enclosing a Petition under 37 C.F.R. 1.47(b) in the above-referenced application. Courtaulds wishes to petition to make application on behalf of and as agent for Kanwaljit Singh Gill.

Mr. Gill is deemed to be the inventor of the subject matter of the claimed present application. The subject matter of the present application was disclosed in PCT Application WO 03/079831 Al and was invented by Mr. Gill during the course of his employment at BG Technologies Limited, United Kingdom.

Mr. Gill refused to sign a combined declaration and power of attorney in the National Stage application filed in the U.S. Patent and Trademark Office on September 22, 2004.

Both United Kingdom and U.S. Patent Counsel for Sara Lee have made numerous attempts to have the documents signed but to no avail.

To maintain the interest set forth in the present application and to prevent the present application from going abandoned, Christian Wells of Courtaulds has executed declaration/power of attorney in the present matter. It is apparent from the foregoing that application by Courtaulds is necessary to protect the rights of the parties.

A check for the fee for petition under 37 C.F.R. 1.17(l) and the fee for the extension of time which is months under 37 C.F.R. 1.17(a)(4) are enclosed herewith.

Respectfully submitted,

December 5, 2005
Date

Charles N.J. Ruggiero
Reg. No. 28,468
Attorney for the Applicant
Ohlandt, Greeley, Ruggiero & Perle,
L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
Tel: 203-327-4500
Fax: 203-327-6401

19 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901

In re Application of	:	DECISION ON
GILL, Kanwaljit Singh	:	
Application No.: 10/508,599	:	PETITION UNDER
PCT No.: PCT/GB03/01338	:	
Int. Filing Date: 20 March 2003	:	37 CFR § 1.47(b)
Priority Date: 22 March 2002	:	
Attorney Docket No.: 0001712USU/2282	:	
For: UNDERCUP INSERT MEMBER	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 16 January 2007.

BACKGROUND

On 20 March 2003, applicant filed international application PCT/GB03/01338, which designated the US and claimed a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2004.

On 22 September 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 08 December 2005, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*: a petition/fee for a five month extension of time; the surcharge under 37 CFR 1.492(e); and a declaration of the inventor.

On 10 July 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) without prejudice. Specifically, it was noted that applicant had not provided factual

proof that the inventor refuses to execute the application or cannot be reached after diligent effort and had not provided proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 16 January 2007, applicant submitted the instant renewed petition under 37 CFR 1.47(b) along with a petition/fee for a four month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 10 July 2006, items (1), (3), (4), and (6) have been met.

Item (2) has now been met as well.

Item (5) still has not been met. An assignment has been provided assigning international application PCT/GB03/001338 "including any patent(s) which are based on or claim priority from such patent application or from patents granted pursuant to such patent application" from B.G. Technologies to Courtalds Textiles (Exhibit XI). This is the same assignment that was provided in the 08 December 2006 submission as Exhibit III. Although the assignment is signed by "Bow" Gill, it is signed by him as "Director" of B.G. Technologies. Proof has not been provided establishing that B.G. Technologies has proprietary interest in Mr. Gill's invention. See MPEP § 409.03(f) for establishing that an entity has proprietary interest in the inventor's invention.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents; Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

#11

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17 SEP 2007

OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901

In re Application of	:	DECISION ON
GILL, Kanwaljit Singh	:	
Application No.: 10/508,599	:	PETITION UNDER
PCT No.: PCT/GB03/01338	:	
Int. Filing Date: 20 March 2003	:	37 CFR § 1.47(b)
Priority Date: 22 March 2002	:	
Attorney Docket No.: 0001712USU/2282	:	
For: UNDERCUP INSERT MEMBER	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 20 July 2007.

BACKGROUND

On 20 March 2003, applicant filed international application PCT/GB03/01338, which designated the US and claimed a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2004.

On 22 September 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 08 December 2005, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*: a petition/fee for a five month extension of time; the surcharge under 37 CFR 1.492(e); and a declaration of the inventor.

On 10 July 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) without prejudice. Specifically, it was noted that applicant had not provided factual

1.47(b) without prejudice. Specifically, it was noted that applicant had not provided factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort and had not provided proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 16 January 2007, applicant submitted a renewed petition under 37 CFR 1.47(b) along with a petition/fee for a four month extension of time.

On 19 March 2007, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) without prejudice. Specifically, it was noted that applicant still had not provided proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 20 July 2007, applicant submitted the instant renewed petition under 37 CFR 1.47(b) along with a petition/fee for a two-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 10 July 2006, items (1), (3), (4), and (6) have been met.

As noted in the decision mailed 19 March 2007, item (2) has been met as well.

Item (5) still has not been met. A copy of a "DEVELOPMENT AND COMMERCIALISATION AGREEMENT" dated 28 October 2003 has been provided. This is the same agreement of which two pages were provided as Exhibit II in the submission filed 08 December 2006. Five pages of the agreement are included in the instant submission. As noted in the decision mailed 10 July 2006, if this agreement is intended as an assignment it has several problems. First, no signature page has been provided. Second, it is not clear whether the agreement relates to the instant application. For example, no application number or even title of invention is given. As also noted in the decision mailed 10 July 2006, if petitioner is attempting to show that this agreement was an employment agreement where inventor Gill as an employee agreed to assign all inventions made during his employment to his employer, a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by B.G. Technologies must be provided. Attention is again directed to MPEP § 409.03 which states in part:

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner

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Legal Administration
Telephone: (571) 272-3301
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0 4 AUG 2008

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OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901

In re Application of	:	DECISION ON
GILL, Kanwaljit Singh	:	
Application No.: 10/508,599	:	PETITION UNDER
PCT No.: PCT/GB03/01338	:	
Int. Filing Date: 20 March 2003	:	37 CFR § 1.47(b)
Priority Date: 22 March 2002	:	
Attorney Docket No.: 0001712USU/2282	:	
For: UNDERCUP INSERT MEMBER	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 17 April 2008.

BACKGROUND

On 20 March 2003, applicant filed international application PCT/GB03/01338, which designated the US and claimed a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2004.

On 22 September 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 08 December 2005, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*: a petition/fee for a five month extension of time; the surcharge under 37 CFR 1.492(e); and a declaration of the inventor.

On 10 July 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) without prejudice. Specifically, it was noted that applicant had not provided factual

proof that the inventor refuses to execute the application or cannot be reached after diligent effort and had not provided proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 16 January 2007, applicant submitted a renewed petition under 37 CFR 1.47(b) along with a petition/fee for a four month extension of time.

On 19 March 2007, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) without prejudice. Specifically, it was noted that applicant still had not provided proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 20 July 2007, applicant submitted a renewed petition under 37 CFR 1.47(b) along with a petition/fee for a two-month extension of time.

On 17 September 2007, a decision was mailed dismissing applicant's renewed petition under 37 CFR 1.47(b) without prejudice. Specifically, it was noted that applicant still had not provided proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 17 April 2008, applicant filed a renewed petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a petition/fee for a five-month extension of time, a declaration of facts by Caroline Marshall, and a legal memorandum by Timothy John Powell.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 10 July 2006, items (1), (3), (4), and (6) have been met.

As noted in the decision mailed 19 March 2007, item (2) has been met as well.

Item (5) has now been met. The legal memorandum of Timothy John Powell and the declaration of facts by Caroline Marshall are adequate to establish that BG Technologies UK Limited has sufficient proprietary interest in the application. As noted in the decision mailed 10 July 2006, applicant has established that BG Technologies UK Limited has assigned the invention to Courtalds Textiles.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **08 December 2005**.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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0 4 AUG 2008

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Kanwaljit Singh Gill
6 Maple Grove
Breaston, Derby
DE72 3BN
United Kingdom

In re Application of
GILL, Kanwaljit Singh
Application No.: 10/508,599
PCT No.: PCT/GB03/01338
Int. Filing Date: 20 March 2003
Priority Date: 22 March 2002
Attorney Docket No.: 0001712USU/2282
For: UNDERCUP INSERT MEMBER

Dear Mr. Gill:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,606	11/04/2004	Ernst Fuchs		4489

60333 7590 12/19/2008

EDWIN D. SCHINDLER
FIVE HIRSCH AVENUE
P.O. BOX 966
CORAM, NY 11727-0966

EXAMINER	
WOODALL, NICHOLAS W	
ART UNIT	**PAPER NUMBER**
3775	

MAIL DATE	DELIVERY MODE
12/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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EDWIN D. SCHINDLER
FIVE HIRSCH AVENUE
P.O. BOX 966
CORAM NY 11727-0966

In re Application of:
FUCHS, ERNST, et al.
Serial No. ~~10/508160~~6 10/508606
Filed: Sep. 22, 2004
Docket: n/a
Title: DISTRACTION DEVICE USED FOR OSTEOGENESIS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on Nov. 21, 2008 under 37 CFR § 1.181. Petitioners request withdrawal of the holding of abandonment and issuance of an examiner's answer.

The petition is granted.

Background

The examiner issued a non-final rejection on Dec. 5, 2007. On Jun. 9, 2008 the applicants submitted an Appeal Brief. A Notice of Non-Compliant Appeal Brief was subsequently mailed on Jun. 24, 2008. The patent appeal specialist cited 37 CFR § 41.37(c) (1) (iii) as grounds for the non-compliance. On Jul. 24, 2008 the applicants submitted an Amended Appeal Brief. A second Notice of Non-Compliant Appeal Brief was subsequently mailed on Aug. 4, 2008. The patent appeal specialist cited 37 CFR § 41.37(c) (vii) as grounds for the non-compliance. On Sep. 4, 2008 the applicants submitted another Amended Appeal Brief. On Nov. 20, 2008, the examiner dismissed the appeal and mailed a Notice of Abandonment. The examiner stated that "the amended appeal brief filed on 09/04/2008 did not address the issues presented on the notification of non-compliant appeal brief mailed on 08/04/2008. Section VI of the appeal brief lists all the rejections of the non-final office action mailed on 12/05/2007 as being reviewed for appeal. Therefore, an argument for each rejection must be presented. The applicant has only provided an argument for the 102(b) rejection of claims 19-22, 25, 30, and 31. Therefore, the amended appeal brief does not correct the deficiencies of the prior appeal brief and based upon MPEP 1205.03 the appeal is dismissed and the application is abandoned." The present petition was filed on Nov. 21, 2008 requesting withdrawal of the holding of abandonment and issuance of an examiner's answer. The petitioners claim that the appeal brief complied with all of the mandatory aspects of 37 CFR § 41.37 (c) (vii) and therefore the Notice on Non-Compliant Appeal Brief was inappropriate.

Discussion

A review of the Notice of Non-Compliant Appeal Brief indicates that the patent appeals specialist cited the heading format requirements described in 37 CFR § 41.37(c) (vii) as grounds for non-compliance.

With respect to heading format, 37 CFR § 41.37(c) (vii), states:

(vii) Argument. The contentions of appellant with respect to each ground of rejection presented for review in paragraph (c) (1) (VI) of this section, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on. Any arguments or authorities not included in the brief or a reply brief filed pursuant to § 41.41 will be refused consideration by the Board, unless good cause is shown. **Each ground of rejection must be treated under a separate heading**. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately. **Any claim argued separately should be placed under a subheading identifying the claim by number. Claims argued as a group should be placed under a subheading identifying the claims by number.**

The only mandatory language regarding heading format in 37 CFR § 41.37(c) (vii) states that "each ground of rejection must be treated under a separate heading." A single Heading in section (VII) on page 8 of the petitioners' appeal brief complied with this requirement as no separate grounds for rejection was argued by the appellant under this single Heading.

Following the mandatory language regarding heading format, 37 CFR § 41.37(c) (vii) provides further suggestions regarding the most appropriate format for the headings. However, these suggestions are merely suggestions, they are not mandatory. 37 CFR § 41.37(c) (vii) only states that that the given format *should* be employed, not that it *must* be employed. While the use of the suggested format would undoubtedly serve to more accurately identify each argument, if any, the petitioners' decision not to follow these suggestions is not an appropriate ground for a finding the appeal brief to be non-compliant. As indicated on page 1 of the amended Appeal Brief of Sep. 4, 2008, the appellants do not wish to separately argue other dependent claims 26-29 and 32-36, then, no mandatory heading or subheading is necessary in the Amended Appeal Brief of Sep. 4, 2008. Therefore, the Amended Appeal Sep. 4, 2008 is hereby accepted.

Decision

For the foregoing reasons, the Notice of Non-Compliant Appeal Brief is withdrawn. The application is returned to the examiner in Art Unit 3733 for response to the Appeal Brief filed on Sep. 4, 2008.

PETITION GRANTED.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Donald T. Hajec, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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PATENT GROUP 2N
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

COPY MAILED

APR 08 2009

OFFICE OF PETITIONS

In re Application of
Herbert A. Little, et al.
Application No. 10/508,631
Filed: September 17, 2004
Attorney Docket No. 555255012379

ON PETITION

This is a decision in response to the petition, filed December 4, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 27, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 28, 2008. This decision precedes the mailing of a Notice of Abandonment. On December 4, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on December 4, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2436 for appropriate action by the Examiner in the normal course of business on the reply received December 4, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Christophe Bureau	: DECISION ON REQUEST FOR
Patent Number	: 7591937	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,665	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

19 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Benita J. Rohm
Rohm & Monsanto, P.L.C.
12 Rathbone Place
Grosse Pointe, MI 48230

In re Application of :
MAXEY, et al. : DECISION ON PETITION
Application No.: 10/508,667 :
PCT No.: PCT/US03/08935 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 21 March 2003 :
Priority Date: 21 March 2002 :
Atty. Docket No.: RM.CM5 :
For: PROSTAGLANDIN F2x ANALOGS AND THEIR USE IN COMBINATION WITH ANTIMICROBIAL PROTEINS FOR THE TREATMENT OF GLAUCOMA AND INTRAOCULAR HYPERTENSION :

The petition to revive under 37 CFR 1.137(b) filed 05 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the basic national filing fee required under 35 U.S.C. § 371(c) from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied. The application has an international filing date of 21 March 2003 under 35 U.S.C. 363 and will be given a date of **05 August 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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OFFICE OF PETITIONS

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

In re Application of :
Maxey, et al. :
Application No. 10/508,667 : ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. 7919.0003.001 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 13, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Office action mailed March 4, 2009. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on April 5, 2009. The Office mailed a Notice of Abandonment on November 6, 2009.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.

The application is being forwarded to Group Art Unit 1612 for consideration of the Election, filed November 13, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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February 11, 2009

Joseph M. Lafata
Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield, MI 48303

Patent No.: 7,319,888 B2
Application No.: 10/508,669
Inventor(s): Shihe Li, et al.
Issued: January 15, 2008
Title: **METHOD OF MOBILE COMMUNICATION SYSTEM WITH SMART ANTENNA**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

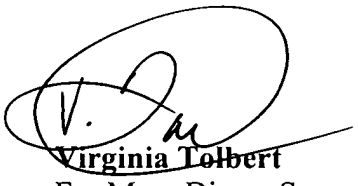
A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.



Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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February 11, 2009

Joseph M. Lafata
Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

Patent No.: 7,319,888 B2
Application No.: 10/508,669
Inventor(s): Shihe Li, et al.
Issued: January 15, 2008
Title: **METHOD OF MOBILE COMMUNICATION SYSTEM WITH SMART ANTENNA**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

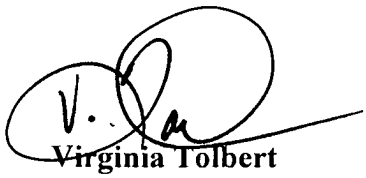
A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.



Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Patent No. 7,319,888 :
Application No. 10/508,669 :
Filed: September 22, 2004 : ON PETITION
Issued: January 15, 2008 :
Attorney Docket No. 9896-052/NP :

This is a decision on the petition filed February 24, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Additionally, the $130.00 surcharge fee which will be charged to petitioner's deposit account as authorized February 24, 2009.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Rader Fishman & Grauer PLLC
Lion Building
1233 20th Street, N.W., Suite 501
Washington, DC 20036

In re Application of :
TOMINAGA, Takehiro :
Application No.: 10/508,671 : DECISION ON REQUEST
PCT No.: PCT/JP03/04885 :
Int. Filing Date: 17 April 2003 :
Priority Date: 25 April 2002 :
Attorney Docket No.: SON-2653 :
For: DATA PROCESSING SYSTEM, DATA PROCESSING METHOD, DATA PROCESSOR, AND DATA PROCESSING PROGRAM

This decision is in response to applicants' request regarding the correction of the inventor's name filed 01 June 2005 notifying the Office that the correct spelling of the inventor's name is TAKEHIRO Tominaga as indicated on the declaration rather than Kakehiro Tominaga as indicated on the published international application. This request will be treated as a response to the Notification of Missing Requirements mailed 01 April 2005.

Counsel states in the present response that "we have been advised by the applicant that the spelling of the inventor's name in these nationalization papers is correct . . . Thus, we believe that the declaration as filed is acceptable." As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48 is not required. Accordingly, applicant's explanation of the difference in the spelling of the first inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing and for review of the national stage papers submitted 22 September 2004.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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In re Application of :
Robert H. BRADBURY et al. :
Application No. 10/508,675 : DECISION ON PETITION
Filed: September 22, 2004 :
Attorney Docket No. **09963.0002** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 17, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 18, 2008. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application , (2) the petition fee of $1540, (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/147,250.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

04 MAR 2005

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Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road NE
Atlanta, GA 30326

In re Application of	:	
Trau et al.	:	
Application No.: 10/508,686	:	
PCT No.: PCT/EP03/02926	:	
Int. Filing Date: 20 March 2003	:	DECISION
Priority Date: 20 March 2002	:	
Attorney Docket No.: 14836-46893	:	
For: Microcapsules Encapsulating A Nucleic Acid Amplification Reaction Mixture And Their Use As Reaction Compartments For Parallel Reactions	:	

The petition to revive under 37 CFR 1.137(b) filed 26 January 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $150.00 was provided. The required petition fee of $665.00 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an oath or declaration of the inventor in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e).

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Itoh, et al. :
Application No. 10/508,704 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. P25933.A06 :

This is in response to the petition under 37 CFR 1.182, filed March 9, 2007.

Applicants have requested to correct the name of inventor Miho Kurosawa to Miho Takahashi. Included was a declaration from Takahashi, executed using both his current and former names.

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the inventor's name.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/508,704	05/25/2005	1621	1050	P25933	13	1

CONFIRMATION NO. 7805

7055
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

CORRECTED FILING RECEIPT

OC000000025485938

OC000000025485938

Date Mailed: 08/21/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Chika Itoh, Kanagawa, JAPAN;
Kazuhiro Kubo, Kanagawa, JAPAN;
Syunsuke Ohhashi, Kanagawa, JAPAN;
Tohru Yasukohchi, Kanagawa, JAPAN;
Hiroshi Kikuchi, Tokyo, JAPAN;
Norio Suzuki, Chiba, JAPAN;
Miho Takahashi, Shizuoka, JAPAN;
Hitoshi Yamauchi, Tokyo, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **7055**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/JP03/03966 03/28/2003

Foreign Applications

JAPAN 2002-93694 03/29/2002

If Required, Foreign Filing License Granted: 12/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/508,704

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Phospholipid derivative

Preliminary Class

554

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

MAILED

MAR 16 2009

OFFICE OF PETITIONS
ON PETITION

In re Application of
Giulio Alberti et al
Application No. 10/508,748
Filed: February 7, 2005
Attorney Docket No. 26332

This is a decision on the petition filed February 11, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

06 APR 2005

#3

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LAW OFFICES OF RONALD M. ANDERSON
600 108TH AVE, NE
SUITE 507
BELLEVUE,WA 98004

In re Application of SCHOWENGERDT et al. Application No.: 10/508,753 PCT No.: PCT/US03/07214 Int. Filing Date: 07 March 2003 Priority Date: 15 March 2002 Attorney Docket No.: UNIV0247 For: MATERIALS AND METHODS FOR STIMULATING FOCAL SHIFTS IN VIEWERS USING LARGE DEPTH FOCUS DISPLAYS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 22 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

The basic national fee of $50 and required petition fee of $665 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The declaration filed on 22 September 2004 is unacceptable because it contains duplicate Page 2 signature pages. Each page is signed by different inventors and combined into one declaration. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that a declaration executed by the inventors is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

18 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WHITE & CASE LLP
PATENT DEPARTMENT
1155 Avenue of the Americas
New York, NY 10036

In re Application of
JUNGHARD, Ola *et al*
Application No.: 10/508,755
PCT No.: PCT/SE02/00642
Int. Filing Date: 28 March 2002
Priority Date: None
Attorney Docket No.: 1103326-0780
For: METHOD OF USE

DECISION

This decision is in response to the "Request for Corrected Notice of Acceptance" filed via facsimile on 16 May 2005. This is treated as a petition under 37 CFR 1.181. No fee is required.

In the petition, applicants request to include the international filing date as the priority date in the Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903). As such, applicants request to vacate the Form PCT/DO/EO/903 mailed 25 April 2005 and issue a corrected Notification of Acceptance.

However, the current practice of the United States Designated/Elected Office (DO/EO/US) when the international filing date is the earliest claimed priority date is not to put a date in the priority date box of the Form PCT/DO/EO/903. This practice does not affect applicants' priority rights. Applicants earliest priority date in the subject application is still 28 March 2002.

Accordingly, applicants' request for a corrected Form PCT/DO/EO/903 is **DISMISSED** without prejudice.

This application is being forwarded to Technology Center 1600 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

27 SEP 2006

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United States Patent and Trademark Office
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09/27/2006 SBASHEIR 00000008 503814 10508759
01 FC:2252 225.00 DA

ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

In re Application of	:	
HONG et al.	:	
Application No.: 10/508,759	:	DECISION
PCT No.: PCT/KR03/00564	:	
Int. Filing Date: 22 March 2003	:	
Priority Date: 22 March 2002	:	
Attorney's Docket No.: DE1586	:	
For: HUMANIZED ANTIBODY AND PROCESS FOR PREPARING SAME	:	

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed 24 July 2006 in the United States Patent and Trademark Office (USPTO), which has been treated as a petition under 37 CFR 1.181, and applicants' "PETITION TO ACCEPT INFORMATION DISCLOSURE STATEMENT" filed 07 August 2006 in the USPTO, which also has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 March 2003, applicants filed international application PCT/KR03/00564, which designated the United States and claimed a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2004.

On 22 September 2004, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 19 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES (Form PCT/DO/EO/922) indicating, *inter alia*, that a copy of the "Sequence Listing" in computer readable form which complied with the requirements of 37 CFR 1.822 and/or 1.823 was required. The Notification set a two-month extendable period for reply.

On 01 August 2005, applicants filed a "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE REGARDING PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES"which included a paper copy of the "Sequence Listing".

On 12 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION mailed 19 April 2005.

On 24 July 2006, applicants filed a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" which was accompanied by, inter alia, a paper copy of the "Sequence Listing", a copy of the "Sequence Listing" in computer readable form, and a postcard receipt date-stamped 01 August 2005 by the USPTO.

On 07 August 2006, applicants filed a "PETITION TO ACCEPT INFORMATION DISCLOSURE STATEMENT" which was accompanied by, *inter alia*, a postcard receipt date-stamped 27 June 2005 by the USPTO and an Information Disclosure Statement form.

DISCUSSION

Petition to Withdraw Holding of Abandonment

It is not clear whether the copy of the "Sequence Listing" in computer readable form filed 01 August 2005 was matched with the application file. Nevertheless, Applicant has provided sufficient evidence to establish that on 01 August 2005 applicant did file a copy of the "Sequence Listing" in computer readable form. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 01 August 2005 and which itemizes a "Replacement Diskette" and identifies the above-captioned application number and docket number. Further, practitioner states that the copy of the diskette filed 24 July 2006 is a copy of the diskette originally filed 01 August 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the diskette received on 24 July 2006 may properly be accepted as originally received in the USPTO on 01 August 2005. The NOTIFICATION OF ABANDONMENT mailed 12 July 2006 is hereby vacated.

Petition to Accept Information Disclosure Statement

Applicant has provided sufficient evidence to establish that on 27 June 2005 applicant filed an Information Disclosure Statement (IDS). The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 27 June 2005 and which itemizes an IDS and identifies the above-captioned application number and docket number. Further, practitioner states that the copy of the IDS filed 07 August 2006 is a copy of the IDS originally filed 27 June 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the IDS received on 07 August 2006 may properly be accepted as originally received in the USPTO on 27 June 2005.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 12 July 2006 is **VACATED**.

The petition under 37 CFR 1.181 to accept the IDS filed 07 August 2006 as having been originally filed on 27 June 2005 is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 04/20/2010

Applicant	: Yoshimasa Okabe	: DECISION ON REQUEST FOR
Patent Number	: 7573513	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,776	: OF WYETH
Filed	: 09/23/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
VISSER, Anthony :
Application No.: 10/508,800 :
PCT No.: PCT/NL03/00252 :
Int. Filing Date: 03 April 2003 : DECISION
Priority Date: 03 April 2002 :
Attorney's Docket No.: 5100-000004/US :
For: STACKABLE CARRIER FOR :
GROWING MATERIAL :

This decision responds to "Response to Notice to File Missing Requirements," filed with the United States Patent and Trademark Office on 27 May 2005.

BACKGROUND

On 03 April 2003, applicants filed international application PCT/NL03/00252 claiming a priority date of 03 April 2002. A copy of the international application was transmitted to the Office on 09 October 2003. The deadline for entry into the national stage in the United States was midnight 03 October 2004.

On 21 September 2004, applicants filed a transmittal letter for entry into that national phase and the basic national fee.

On 19 April 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 May 2005, applicants submitted a response to the Notification of Missing Requirements and a declaration.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. The Office does not have a record of such a change.

A requirement to enter national phase is an oath or declaration in compliance with 37 CFR 1.497(a)-(b). That oath or declaration, as discussed above, must be executed by the inventors in the international application. The 27 May 2005 declaration is executed by "Cornelis Frans Taco Visser," not "Anthony Visser" as listed on the international application.

CONCLUSION

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

OIPE IAP36 APR 03 2006 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/508,800	Anthony Visser	5100-000004/US

INTERNATIONAL APPLICATION NO.	
PCT/NL03/00252	
I.A. FILING DATE	PRIORITY DATE
04/03/2003	04/03/2002

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Miss Reg
6/19/05

CONFIRMATION NO. 3940

371 FORMALITIES LETTER

OC000000015759605

Date Mailed: 04/19/2005

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 09/21/2004
- Copy of the International Search Report filed on 09/21/2004
- Copy of IPE Report filed on 09/21/2004
- Copy of Annexes to the IPER filed on 09/21/2004
- Preliminary Amendments filed on 09/21/2004
- Information Disclosure Statements filed on 09/21/2004
- Request for Immediate Examination filed on 09/21/2004
- U.S. Basic National Fees filed on 09/21/2004
- Priority Documents filed on 09/21/2004

RECEIVED
APR 22 2005
HARNESS, DICKEY & PIERCE

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

BEST AVAILABLE COPY

*A copy of this notice **MUST** be returned with the response.*

FREDERICK SMITH

Telephone: (703) 308-9140 EXT 210

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/508,800	PCT/NL03/00252	5100-000004/US

FORM PCT/DO/EO/905 (371 Formalities Notice)

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#7

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15 SEP 2006

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
VISSER, Anthony :
Application No.: 10/508,800 :
PCT No.: PCT/NL03/00252 :
Int. Filing Date: 03 April 2003 : DECISION
Priority Date: 03 April 2002 :
Attorney's Docket No.: 5100-000004/US :
For: STACKABLE CARRIER FOR :
GROWING MATERIAL :

This decision responds to "Response to Notice to File Missing Requirements of an Application," filed with the United States Patent and Trademark Office on 03 April 2006.

BACKGROUND

On 03 April 2003, applicants filed international application PCT/NL03/00252 claiming a priority date of 03 April 2002. A copy of the international application was transmitted to the Office on 09 October 2003. The deadline for entry into the national stage in the United States was midnight 03 October 2004.

On 21 September 2004, applicants filed a transmittal letter for entry into that national phase and the basic national fee.

On 19 April 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 May 2005, applicants submitted a response to the Notification of Missing Requirements and a declaration, executed by "Cornelis Frans Taco Visser".

On 04 November 2005, the Office mailed Decision indicating that the inventor in the international application was "Anthony Visser" and the Office had no record of a change under Rule 92*bis*, but the declaration was executed by "Cornelis Frans Taco Visser".

On 03 April 2006, applicants submitted the fee for an extension of time and a declaration executed by "Anthony Visser".

DISCUSSION

Applicant previously supplied a declaration executed by an inventor other than the one listed on the international application. Applicant has now supplied a declaration executed by the inventor listed on the international application. The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

This application is being forwarded to the National Phase Processing Branch of the Office of PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 April 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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15 APR 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Richard A. Nebb
Dergosits & Noah, LLP
Four Embarcadero Center, Suite 1450
San Francisco, CA 94111

In re Application of	:	DECISION ON
Thwaites et al	:	
Application No.: 10/508,801	:	
PCT No.: PCT/GB03/00568	:	PETITION UNDER
Int. Filing Date: 07 February 2003	:	
Priority Date: 08 February 2002	:	
Attorney's Docket No.: 498.02.02	:	
For: INFORMATION ROUTING	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 23 September 2004.

BACKGROUND

On 07 February 2003, this international application was filed, claiming an earliest priority date of 08 February 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 08 August 2004.

On 23 September 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee, and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The required fee of $65.00 (the surcharge under 1.492(h) for late filing of the declaration) has been charged to Deposit Account No.: 04- 0822 as authorized in the petition submitted on 23 September 2004.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **23 September 2004.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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21 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert D. Fish
RUTAN & TUCKER
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92626

In re Application of:	:	
DONOHO, Bruce	:	DECISION
U.S. Application No.: 10/508,804	:	
PCT No.: PCT/US02/10117	:	
International Filing Date: 01 April 2002	:	
Priority Date: None	:	
Attorney's Docket No.:100745.0015US	:	
For: BRANCHED SPIKE BIRD DETERRENT	:	

This Communication is issued in response to applicant's 30 March 2005 correspondence seeking a refund of $315. This amount represents the difference between the $365 small entity basic national fee filed by applicant on 22 September 2004 and the $50 small entity basic national fee that would have been required had the International Preliminary Examination Report (IPER) mailed on 25 March 2005 been issued to prior to the date on which entry into the national stage was required. The refund request is **GRANTED**, as discussed below:

A review of the international application confirms that the IPER was mailed after the thirty month deadline for entry into the national stage, and that the IPER found all the claims herein to satisfy PCT Article 33(1)-(4). Had this IPER been issued prior to the date on which entry into the national stage was required, applicant would have been entitled to pay the reduced basic national fee of $50, as set forth in 37 CFR 1.492(a)(4). Instead, applicant was required to pay the $365 basic national fee set forth in 37 CFR 1.492(a)(1). Because the payment of the higher fee resulted from the failure of the IPER to be timely issued, a refund of the $315 difference between the two fees is appropriate.

Deposit Account No. 50-2191 will be credited with the requested refund of $315.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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To: Certificate of Corrections Branch

From: Richard M. Ross
Attorney Advisor, Office of PCT Legal Administration RMR

Subject: Request for Certificate of Correction for Patent No. 7,234,568

This is in reply to patentee's "Request for Certificate of Correction" filed 15 February 2008.

The request should be accepted. The filing date of the PCT international application was 30 January 2003.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
(571)272-3296

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LAW OFFICES OF STUART J. FRIEDMAN
28930 RIDGE ROAD
MT. AIRY, MD 21771

Mail Date: 04/21/2010

Applicant	: Christophe Genevois	: DECISION ON REQUEST FOR
Patent Number	: 7590242	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,840	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF STUART J. FRIEDMAN
28930 RIDGE ROAD
MT. AIRY, MD 21771

Mail Date: 05/18/2010

Applicant : Christophe Genevois
Patent Number : 7590242
Issue Date : 09/15/2009
Application No: 10/508,840
Filed : 03/08/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1199** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,441,372 :
Issued: October 28, 2008 :
Application No. 10/508,845 : PATENT TERM ADJUSTMENT
Filed: September 23, 2004 :
Dkt. No.: 258774US6PCT :

This is a decision on the "PETITION UNDER 37 C.F.R. §1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed December 29, 2008.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,441,372 on October 28, 2008. The patent issued with a PTA of 668 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the adjustment be increased from 668 days to 1,068 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that only a portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,070 days (deemed by applicants to be the sum of the period of three year delay (401 days) and the period of examination delay (670 days), reduced by one days of overlap). Patentees assert that in addition to this 401-day period, less one overlapping day, they are entitled to a period of adjustment due to examination delay pursuant to

37 CFR 1.702(a) of 670 days. As such, patentees assert entitlement to a patent term adjustment of 1,068 days (401 days *plus* 670 days *less* one days of overlap *less* two days of applicant delay).

The Office asserts that as of the issuance of the patent on November 18, 2008, the application was pending three years and 401 days after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

The Office asserts that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 670 days is correct. At issue is whether patentees should accrue an additional 401 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 670 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 401 days delay in issuance of the patent overlaps with the period of examination delay of 670 days. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg.

> 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the national stage commenced under 35

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

U.S.C. 371(b) or (f) in an international application overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, September 23, 2004, to the date the patent issued on October 28, 2008. Prior to the issuance of the patent, 670 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 401 days after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. However, the Office did not delay 670 days and then delay an additional 401 days. Accordingly, 670 days of patent term adjustment (not 670 days and 401 days) was properly entered because the period of delay of 401 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 670 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Joseph R. Baker, APC
Gavrilovich, Dodd & Lindsey, LLP
4660 La Jolla Village Drive, Suite 750
San Diego, CA 92122

In re Application of :

Hilmar Meek Warenius et al. :
Application No. 10/508,873 : DECISION ON PETITION
Filed: December 6, 2004 : TO WITHDRAW
Attorney Docket No. 74767.00500.UTL : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 29, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Martin R. Bader does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Martin R. Bader
Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

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Intellectual Property Dept.
Dewitt Ross & Stevens SC
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Suite 600
Madison WI 53703-2865

12/4/08

In re Application of:
AMOS, PAMELA LOUISE
Serial No. 10/508,900
Filed: Sep. 23, 2004
Docket: 40735022/53500US
Title: METHOD AND APPARATUS FOR CLEANING HOOK & LOOP ATTACHMENT MATERIALS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Nov. 24, 2008 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Sep. 12, 2008.

The petition is granted.

It is noted that the record does show that in the amendment filed on May 22, 2008, the applicant did not amend at least the independent claim15. There was no changes in scope of at least claim 15. Therefore, the rejections of at least claim 15 under 35 U.S.C. 102(b) as being anticipated by Brickley (U.S. Pat. 3,999,244) and Miller (U.S. Pat. 1,916,08) were not necessitated by the amendment filed on May 22, 2008. As such, the finality of the Office actions issued on Sep. 12, 2008 is premature and thus the finality of the action is hereby withdrawn. Since the finality is being withdrawn, the amendment filed on Nov. 10, 2008 in response to the Office action dated Sep. 12, 2008 has been treated as a 37 CFR § 1.111 amendment. The amendment of Nov. 10, 2008 has been entered. The examiner has been directed to issue a new Office action.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3727 for consideration of the amendment filed on Nov. 10, 2008. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Robert Olszewski, Director
Technology Center 3700

#8

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09 DEC 2005

FOLEY AND LARDNER LLP
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WASHINGTON DC 20007

In re Application of	:	DECISION ON
JUNG et al	:	
PCT No.: PCT/EP03/02662	:	
Application No.: 10/508,921	:	
Int. Filing Date: 14 March 2003	:	PETITION UNDER
Priority Date: 25 March 2002	:	
Attorney's Docket No.: 046516-0101	:	
For: SOLDERED REFRIGERANT CONDENSER	:	37 CFR 1.47(a)

This is in response to the "PETITION FOR FILING WHEN AN INVENTOR REFUSES TO SIGN OR CANNOT BE REACHED UNDER 37 C.R.F. § 1.47(a)" filed on 26 September 2005. The $200.00 petition fee has been paid by check.

BACKGROUND

On 14 March 2003, applicants filed international application PCT/EP03/02662, which claimed priority to an earlier application filed 25 March 2002. The thirty (30) month time period for paying the basic national fee in the United States of America expired at midnight on 25 September 2004.

On 24 September 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter. A copy of the intentional application was transmitted on 02 October 2003 to the USPTO from the International Bureau.

On 24 February 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its mailing date or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 26 September 2005, petitioner filed the present petition accompanied, inter alia, an executed Declaration without the signature of one of the five inventors, i.e., without the signature of Alain MAURER.

DISCUSSION

Petitioner's petition under 37 CFR 1.47(b) is improper because this petition is for the circumstance when all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort. In this situation two of the four inventors signed the declaration. Accordingly, the petition has been treated under 37 CFR 1.47(a).

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § **1.17(h)**, and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § **1.63**.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the

inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1) and (3) of 37 CFR 1.47(a). However, items (2) and (4) have not been satisfied.

Regarding item 2, Mr. Schwaab alleges in ¶ 2 that numerous attempts were made by members of the Patent Department of the assignee to obtain the signature of Mr. Maurer by sending the application and Declaration to him, and that he did not communicate back to those who sent the documents. However, it is unclear if the mailed documents were actually mailed to and received by the non-signing inventor, Mr. Maurer, because no documentary evidence to support this assertion has been provided such as a signed postal receipt and the cover letter addressed to Mr. Maurer instructing him what to do.

In addition, it is unclear if Mr. Schwaab has first hand knowledge of the mailings to the nonsigning inventor, if he doesn't then petitioner needs to submit statements, with specific facts on the actions referred to the mailing of the documents to the nonsigning inventor by persons who have first-hand knowledge of such facts.

The current record does not sufficiently establish Alain MAURER's refusal to join in the patent application because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

Regarding item 4, the Declaration filed is defective. Although petitioner states on ¶ 1 that the Declaration has been signed by all of the available joint inventors for and on behalf of the nonsigning inventor, a review of the Declaration shows that only Mr. Jung signed on the behalf of Mr. Maurer. Petitioner needs to provide a new executed Declaration signed by all the joint inventors and leave the section of Mr. Maurer unsigned and then resubmit the above statement that all the joint inventors signed on behalf of Mr. Maurer.

Consequently, the petition has not met the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 272-0459

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In re Application of	:	DECISION ON
JUNG et al	:	
PCT No.: PCT/EP03/02662	:	
Application No.: 10/508,921	:	
Int. Filing Date: 14 March 2003	:	PETITION UNDER
Priority Date: 25 March 2002	:	
Attorney's Docket No.: 046516-0101	:	
For: SOLDERED REFRIGERANT CONDENSER	:	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.R.F. § 1.47(a)" filed on 09 February 2006.

BACKGROUND

In a decision from this Office on 09 December 2005, the petition was dismissed. The decision stated that petitioner had not provided sufficient support to establish Alain MAURER's refusal to join in the patent application because no evidentiary documents were submitted to show that a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

On 09 February 2006, petitioner filed the present renewed petition accompanied with an executed Declaration and a declaration by Gisela Reusrath.

DISCUSSION

Petitioner's petition under 37 CFR 1.47(b) is improper because this petition is for the circumstance when all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort. In this situation two of the four inventors signed the declaration. Accordingly, the petition has been treated under 37 CFR 1.47(a).

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be

> accompanied by a petition including proof of the pertinent facts, the fee set forth in § **1.17(h)**, and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § **1.63**.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an

express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1), (3) and (4) of 37 CFR 1.47(a). However, the renewed petition still does not satisfy item (2).

Although documentary evidence has been submitted to show that petitioner made an attempt to obtain Alan MAURER's signature, the evidence provided does not refer to a copy of the application papers of either the international application or the aforementioned application being sent to Mr. MAURER for his review. Instead, the letters refer to two documents (1) declaration and (2) assignment for his review and signature and only letter (June 20, 2005) refers to a related South African patent application. Because statements do not refer to a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP 409.03(d) being sent to him with the other two documents for his review and signature, petitioner did not make a bona fide attempt to obtain MAURER's signature.

Consequently, the current record does not sufficiently establish that Alain MAURER's refusal to join in the application because of a complete copy of the application papers do not appear to have been delivered to him as required.

Therefore, the petition has not met the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

#12

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

08 FEB 2007

In re Application of	:	DECISION ON
JUNG et al	:	
PCT No.: PCT/EP03/02662	:	
Application No.: 10/508,921	:	
Int. Filing Date: 14 March 2003	:	PETITION UNDER
Priority Date: 25 March 2002	:	
Attorney's Docket No.: 046516-0101	:	
For: SOLDERED REFRIGERANT CONDENSER	:	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.R.F. § 1.47(a)" filed on 06 October 2006.

BACKGROUND

In a decision from this Office on 06 April 2006, the petition was dismissed. The decision stated that petitioner had not provided sufficient support to establish Alain MAURER's refusal to join in the patent application because no evidentiary documents were submitted to show that a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

On 06 October 2006, petitioner filed the present renewed petition accompanied with an executed Declaration and a declaration by Fahrija Pilavdzic.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Petitioner has satisfied items (1), (3) and (4) of 37 CFR 1.47(a). However, the renewed petition still does not satisfy item (2).

Pilavdzic's declaration shows that petitioner made an attempt to obtain Alan MAURER's signature because the evidence provided refers to a copy of the application papers, Soldered Refrigerant Condenser, Declaration and Assignment being sent to Mr. Maurer's last known address for his review and signature.

However, it is unclear if Mr. Maurer still resides in that address because in Exhibit 1 provided with the renewed petition, the return postage card is translated and it states that "does not live at the indicated address." If Mr. Maurer does not reside at the place the papers where mailed to, then petitioner is under an obligation to try to find or reach Mr. Maurer. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

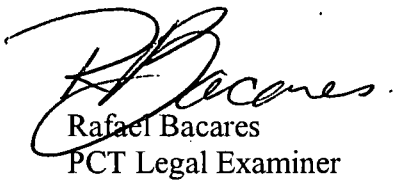
Therefore, the petition has not met the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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#14

UNITED STATES PATENT AND TRADEMARK OFFICE

28 SEP 2007

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of:
JUNG, et al.
U.S. Application No.: 10/508,921
PCT No.: PCT/EP03/02662
International Filing Date: 14 March 2003
Priority Date: 25 March 2002
Attorney's Docket No.: 046516-0101
For: SOLDERED REFRIGERANT CONDENSER

DECISION ON RENEWED PETITION
(37 CFR 1.47(a))

In decisions mailed by this Office on 09 December 2005, 06 April 2006, and 08 February 2007, petitioner's petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. As indicated in the most recent decision, mailed 08 February 2007, the remaining requirement for a grantable petitioner was an adequate showing that the non-signing inventor refuses to execute the declaration or cannot be located after diligent effort.

On 09 July 2007, petitioner filed the renewed petition considered herein (with required extension fee). The renewed petition includes supplemental materials which adequately demonstrate that the non-signing inventor has been presented with a request to execute the application papers, accompanied by a copy of the complete application, and that the non-signing inventor has failed to provide an executed declaration in response to such request. Such materials, in combination with the previously filed petition materials, are accepted as an adequate showing that the non-signing inventor has refused to execute the declaration herein. Applicants have therefore now satisfied the remaining requirement for a grantable petition under 37 CFR 1.47(a).

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of non-signing inventor Alain MAURER.

A notice of the acceptance of the application under 37 CFR 1.47(b) will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the renewed petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 February 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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ALEXANDRIA, VA 22313-1450
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28 SEP 2007

Mr. Alain MAURER
7 rue Montagne
57250 Grossbliederstorff
FRANCE

In re Application of: JUNG, Patrick, et al.
U.S. Application No.: 10/508,921
PCT No.: PCT/EP03/02662
International Filing Date: 14 March 2003
Priority Date: 25 March 2002
Attorney's Docket No.: 046516-0101
For: SOLDERED REFRIGERANT CONDENSER

Dear Mr. MAURER:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel Of Record:
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Haguet, et al. : DECISION ON PETITION
Application No. 10/508,922 :
Filed: September 23, 2004 :
Atty. Dkt. No.: 2002P04668WOUS :

This is a decision on the petition under 37 CFR 1.137(a), filed February 20, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned October 27, 2006 for failure to timely reply to the non-final Office action mailed July 26, 2006. The non-final Office action set a three (3) month statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioners have failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners attribute the failure to timely reply to the non-final Office action to non-receipt.

In the absence of any irregularity in the mailing of the non-final Office, there is a strong presumption that the non-final Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of

mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition is not accompanied by any evidence to support petitioners' contention of non-receipt of the non-final Office action. Any renewed petition must include supporting documentation to establish non-receipt of the non-final Office action.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street

Application No. 10/508,922

Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Haguet, et al. : DECISION ON PETITION
Application No. 10/508,922 :
Filed: September 23, 2004 :
Atty. Dkt. No.: 2002P04668WOUS :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed May 1, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned October 27, 2006 for failure to timely reply to the non-final Office action mailed July 26, 2006. The non-final Office action set a three (3) month statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (3) above. Petitioners have failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners continue to attribute the failure to timely reply to the non-final Office action to non-receipt.

In the absence of any irregularity in the mailing of the non-final Office, there is a strong presumption that the non-final Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition is accompanied by the declaration of Tracey Daniel who declares that a search of relevant file jacket and docket records reveals that the Office communication was not received.

Accompanying the declaration is what purports to be a copy of a docket record showing that the Office communication was not in fact received. As shown by the accompanying copy of the docket record received by the Office, the copy of the docket record is illegible. Accordingly, the Office is unable to corroborate the facts as alleged by declarant.

Any renewed petition must include supporting documentation to establish non-receipt of the non-final Office action.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

Application No. 10/508,922

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

Exhibit A

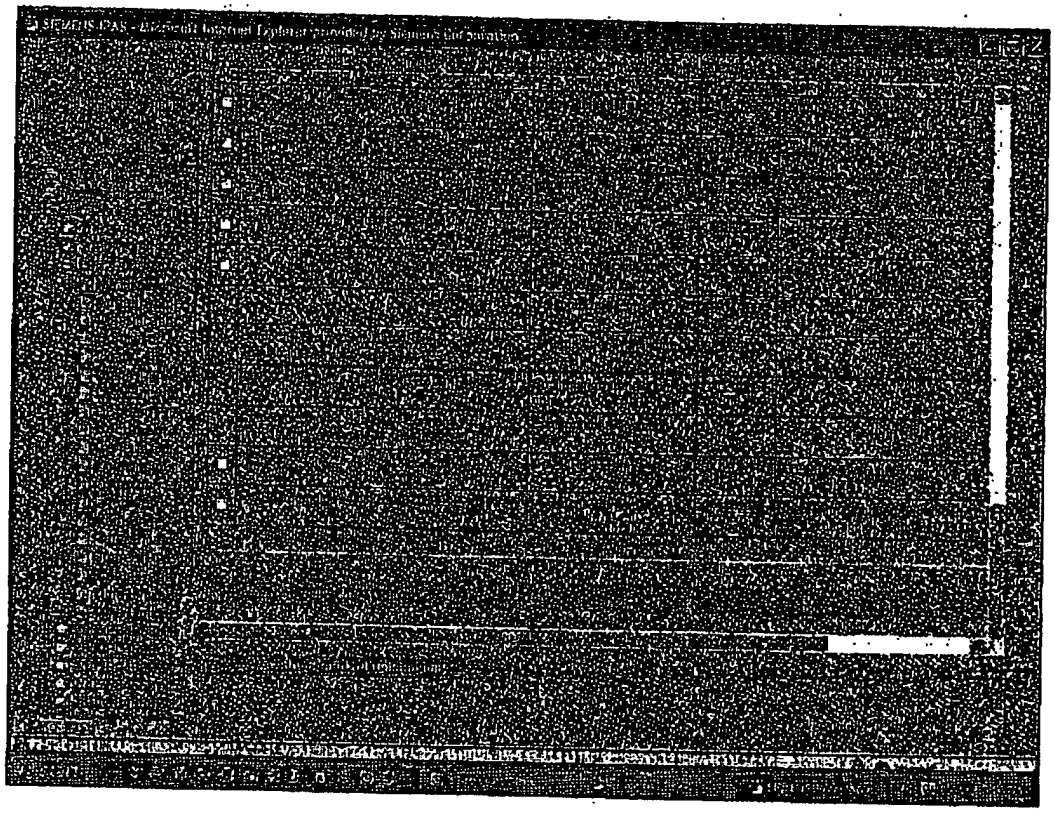

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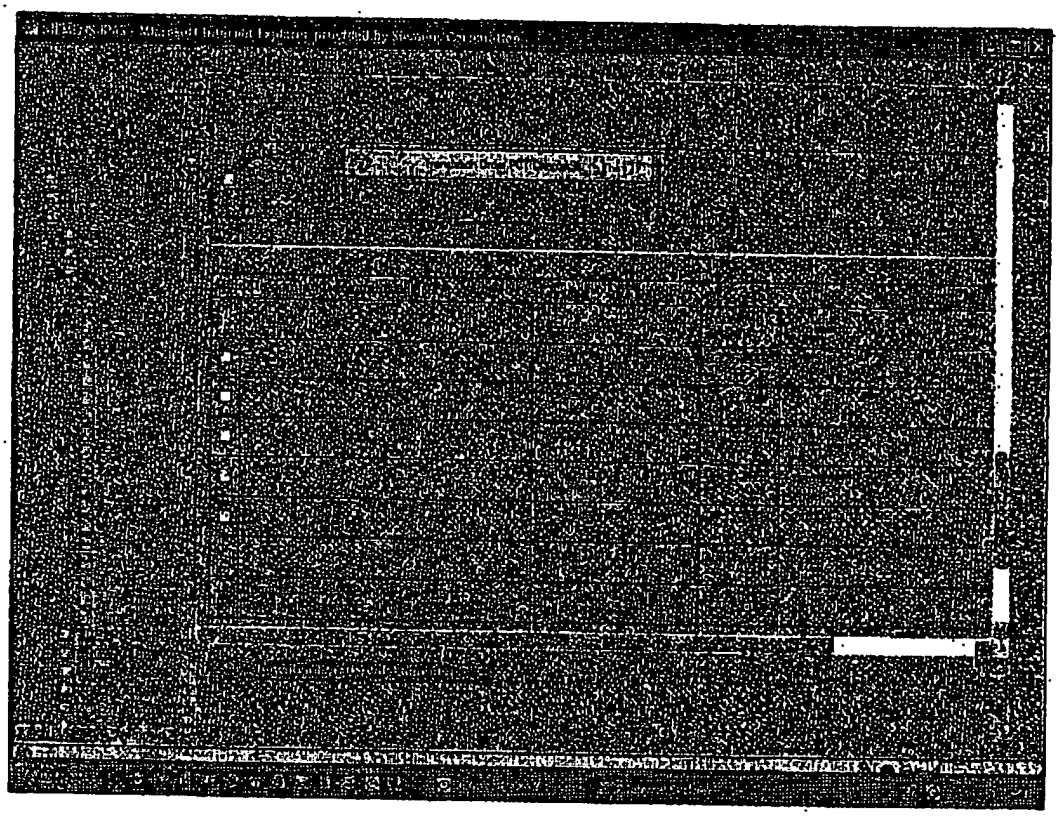
Exhibit B



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OFFICE OF PETITIONS

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

In re Application of :
Haguet, et al. : DECISION ON PETITION
Application No. 10/508,922 :
Filed: September 23, 2004 :
Atty. Dkt. No.: 2002P04668WOUS :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed August 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 27, 2006 for failure to timely reply to the non-final Office action mailed July 26, 2006. The non-final Office action set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed August 28, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(a). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unavoidably delayed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : November 13, 2009

Patent No. :7268503
Inventor :Yamasaki et al.
Patent Issued :September 11, 2007
Title :VIBRATION LINEAR ACTUATING DEVICE, METHOD OF DRIVING THE SAME :DEVICE, AND PORTABLE INFORMATION APPARATUS USING THE SAME DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Inspection of the application for the patent reveals that in connection with the alleged errors pertaining the Certificate of Correction filed June 2, 209; the printed data in the letters patent with regard to applicants request is in accordance with the records within the Patent and Trademark office. As the result of further review, it has been determined that the changes as presented are not warranted entry as applicants request creates a 112 issue that a claim previously set forth and then specify a further limitation of the subject matter claimed. Claims 2, 3, 10, 15 and 16 are non compliant with this requirement. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 and 323 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

/arg

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

30 DEC 2005

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20037

In re Application of
Sekiguchi et al.
Application No.: 10/508,936
PCT No.: PCT/JP03/04611
Int. Filing Date: 11 April 2003
Priority Date: 12 April 2002
Attorney Docket No.: Q83708
For: Liquid Crystal Display Device

DECISION

This is a decision on the "Response To Notification Of Missing Requirements..." filed on 15 June 2005, which is being treated as a petition.

BACKGROUND

This international application was filed on 11 April 2003, designated the U.S., and claimed a priority date of 12 April 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 23 October 2003. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 12 October 2004. On 27 September 2004, applicants filed *inter alia* the basic national fee.

On 16 May 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 27 June 2005, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) was 15 June 2005.

DISCUSSION

Petitioner argues that a declaration of the inventors "was in fact filed on September 27, 2004 as evidenced by the receipt date stamped by the PTO, a copy of which is attached hereto. Applicant is re-submitting a copy of the Declaration as filed on September 27, 2004."

The accompanying copy of a return postcard receipt itemizes, *inter alia*, a "Decl Yes (4 pages)." The postcard is stamped "Rec'd PCT/PTO 27 SEP 2004." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, the four-page Declaration filed on 15 June 2005 is regarded as a copy of the declaration originally filed on 27 September 2004. Accordingly, the 35 U.S.C. 371(c)(1), (2) and (4) date appearing on the 27 May 2005 Notice of Acceptance is in error, and said Notice of Acceptance is hereby **VACATED.**

CONCLUSION

The petition is **GRANTED** as described above.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) reflecting **27 September 2004** as the date of this application under 35 U.S.C. 371(c)(1), (2) and (4). A corrected Filing Receipt reflecting a "filing date" (date under 35 U.S.C. 371(c)(1), (2) and (4)) of **27 September 2004** will also be prepared and mailed.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Eric Spector
Bacon & Thomas, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314

In re Application of	:	
STAMLER, et al.	:	DECISION ON PETITION
Application No.: 10/508,957	:	
PCT No.: PCT/US03/03126	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 24 February 2003	:	
Priority Date: 06 March 2002	:	
Atty. Docket No.: STAM3002 PCT	:	
For: METHOD AND COMPOSITIONS BASED ON DISCOVERY OF METABOLISM OF NITROGLYCERIN	:	

The petition to revive under 37 CFR 1.137(b) filed 05 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.37(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, specifically the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

29 JUL 2005

#6

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GREENFIELD, Michael S.
MCDONNELL BOEHNEN HULBERT
& BERGHOFF LLP
300 South Wacker Drive
Suite 3100
Chicago, IL 60606
US

In re Application of	:	DECISION ON RENEWED
MIRWALDT et al	:	
PCT No.: PCT/EP03/01783	:	
Application No.: 10/508,961	:	
Int. Filing Date: 21 February 2003	:	PAPERS FILED
Priority Date: 28 March 2002	:	
Attorney's Docket No.: 04-689	:	
For: METHOD FOR SPINNING AND REELING ...	:	
SAID SPINNING METHOD	:	UNDER 37 CFR 1.42

This is a decision on the papers filed 12 July 2005, which has been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

In a decision from this Office on 13 May 2005, the request filed on 14 March 2005 was dismissed. The decision stated that the petition did not comply with 37 CFR §1.497(b)(3).

On 12 July 2005, applicants filed the present renewed submission under 37 CFR § 1.42 accompanied with a new executed declaration.

DISCUSSION

The renewed submission includes, a newly executed declaration signed by the legal representatives and the corresponding inventors. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

Thus, the requirements under 35 USC 371(c) are satisfied.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continue processing and indicating a date of **12 July 2005** under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4).

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22131-1450
www.uspto.gov

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

In re Application of	:	
Forbes et al.	:	
Application No.: 10/508,966	:	DECISION ON
PCT No.: PCT/GB03/01327	:	
Int. Filing Date: 20 March 2003	:	PETITION UNDER
Priority Date: 27 March 2002	:	
Attorney Docket No.: 424662008900	:	37 CFR 1.47(a)
For: Refrigerating Apparatus	:	

This is a decision on applicant's "Petition Under 37 CFR 1.47(a)" filed on 13 December 2004.

BACKGROUND

This international application designated the U.S., was filed on 20 March 2003 and claimed earliest priority of an application filed on 27 March 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 09 October 2003. Accordingly, the 30 month time period for payment of the basic national fee in the U.S. expired as of midnight on 27 September 2004. On 24 September 2004, applicants filed *inter alia* the basic national fee.

DISCUSSION

Counsel requests that the absence of the signature of joint inventor Dr. Steve C. J. Parker on the declaration of the inventors be excused pursuant to 37 CFR 1.47(a). A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding requirement (1), the petition fee has been paid.

Regarding requirement (2), the petition is accompanied by a "Declaration Of Janet Smith" signed by Ms. Smith and describing her efforts to obtain Dr. Parker's signature on the declaration and suggesting that Dr. Parker refused to sign the declaration. Inspection of the documentary evidence supporting Janet Smith's statement, including the letters received from Dr. Parker, reveals that Dr. Parker has refused to sign the declaration within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement of the last known addresses of Dr. Parker. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration of the inventors accompanying the petition names an inventive entity, consisting of Andrew Forbes, Mark Philip Taylor, and Dr. Stephen Parker, which differs from the inventive entity named in the published international application to the extent that the published international application names "Parker, Steve, C., J." Review of the documentary evidence accompanying the petition suggests that the instant declaration does not properly name Dr. Parker, since said evidence clearly indicates that Dr. Parker's given name is "Steve" rather than "Stephen." A third declaration, signed on Dr. Parker's behalf, has also been filed, but the signature appearing on that declaration does not appear to be that of either joint inventor. As such, the declarations do not appear to be signed on behalf of Dr. Parker by the other joint inventors, since some person other than the other joint inventors has apparently signed on Dr. Parker's behalf. Counsel is required to submit an executed oath or declaration which properly names the inventors, and which is executed by the signing inventors on behalf of themselves and Dr. Parker. Presently, for the reasons described above, requirement (4) has not been satisfied.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

07 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22131-1450
www.uspto.gov

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

In re Application of	:	
Forbes et al.	:	
Application No.: 10/508,966	:	DECISION ON
PCT No.: PCT/GB03/01327	:	
Int. Filing Date: 20 March 2003	:	PETITION UNDER
Priority Date: 27 March 2002	:	
Attorney Docket No.: 424662008900	:	37 CFR 1.47(a)
For: Refrigerating Apparatus	:	

This is a decision on applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed on 15 March 2005.

DISCUSSION

In a decision mailed on 03 February 2005, the petition filed on 13 December 2004 was dismissed without prejudice because

> Regarding requirement (4), the declaration of the inventors accompanying the petition names an inventive entity, consisting of Andrew Forbes, Mark Philip Taylor, and Dr. Stephen Parker, which differs from the inventive entity named in the published international application to the extent that the published international application names "Parker, Steve, C., J." Review of the documentary evidence accompanying the petition suggests that the instant declaration does not properly name Dr. Parker, since said evidence clearly indicates that Dr. Parker's given name is "Steve" rather than "Stephen." A third declaration, signed on Dr. Parker's behalf, has also been filed, but the signature appearing on that declaration does not appear to be that of either joint inventor. As such, the declarations do not appear to be signed on behalf of Dr. Parker by the other joint inventors, since some person other than the other joint inventors has apparently signed on Dr. Parker's behalf. Counsel is required to submit an executed oath or declaration which properly names the inventors, and which is executed by the signing inventors on behalf of themselves and Dr. Parker. Presently, for the reasons described above, requirement (4) has not been satisfied.

The instant renewed petition is accompanied by a new declaration of the inventors which properly names the inventive entity and which is signed by joint inventors Andrew Forbes and Mark Philip Taylor on behalf of themselves and non-signing joint inventor Steve C.J. Parker. As such, petitioner has now satisfied requirement (4). Accordingly, it would be appropriate to grant the requested relief on the basis of the present record.

DECISION

The petition under 37 CFR 1.47 (a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **15 March 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

07 APR 20

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Dr. Steve C.J. Parker
39 Meadgate
Emersons Green
Bristol BS16 7AZ
United Kingdom

In re Application of
Forbes et al.
Application No. 10/508,966
PCT No.: PCT/GB03/01327
Int. Filing Date: 20 March 2003
Priority Date: 27 March 2002
For: Refrigerating Apparatus

Dear Dr. Parker:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

Morrison & Foerster
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
ALEXANDRIA, VA 22313-1450
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Dr. Steve C.J. Parker) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/GB03/01327 and was filed on March 20, 2003 in the names of Andrew Forbes, Steve C.J. Parker and Mark Philip Taylor for the invention entitled REFRIGERATING APPARATUS. The national stage application number is 10/508,966 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of March 15, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

COPY MAILED

NOV 07 2007

OFFICE OF PETITIONS

In re Application of :
FOLL, Uwe :
Application No. 10/508,974 : DECISION ON PETITION
Filed: September 24, 2004 : TO WITHDRAW
Attorney Docket No. **118744-029** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on August 1, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/2/10

TO SPE OF : ART UNIT 3617
SUBJECT : Request for Certificate of Correction for Appl. No.: 10508977
Patent No.: 7587983

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

Approved in Part — Specify below which changes **do not** apply.

Denied — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____ 3617
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Brian Maurice Parker	: DECISION ON REQUEST FOR
Patent Number	: 7587983	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/508,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **791** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

11 FEB 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Frank E. Reid
ExxonMobil Chemical Company
Law Technology
P O Box 2149
Baytown, TX 77522-2149

In re Application of BORGMANN et al. Serial No.: 10/508,983 PCT App. No.: PCT/EP02/11407 Int'l Filing Date: 11 October 2002 Priority Date: 16 October 2001 Attorney Docket No.: 2001B133 For: A METHOD FOR PROCESSING AN OLEFIN-CONTAINING PRODUCT STREAM	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from due date for the required reply until the filing of a grantable petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $920 has been provided. The required petition fee of $1330 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of the Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : May 28, 2008

Patent No :7,268,503
Inventor :Hirokazu Yamasaki et al.
Issued :September 11, 2007
Docket No. : VIBRATION LINEAR ACTUATING DEVICE, MEHTOD OF DRIVING THE SAME DEVICE,
:AND PORTABLE INFORMATION APPARATUS USING THE SAME DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals, that in connection with the alleged errors; column 8, claim 1, line 41 col. 9, claim 9, line 17 and col. 10, claim 13 line 10 of which applicant refer; the patent with respect to applicants request is printed in accordance with the record in the Patent and Trademark Office as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied.

Further consideration may be obtained with the submission of a new request filed under 37 CFR 1.323 with the required fee of $100.00 or a request for reconsideration filed under 37 CFR 1.322 which includes documentation in support of applicants claim.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9390 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9390 ext. 123

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : February 20, 2008

Patent No. : 7268503
Inventor : Hirokazu Yamasaki et al.
Patent Issued : September 11, 2007
Title :VIBRATION LINEAR ACTUATING DEVICE, METHOD OF DRIVING THE :SAME DEVICE, AND PORTABLE INFORMATION APPARATUS USING THE :SAME DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the claims with regard to applicants request; the patent is considered in accordance with the records within the Patent and Trademark Office as the record reveals the amended claims that applicant has described (amendment on 9/27/04 in the request do not match with the claims in the case.. The two sets of claims are different. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9390 ext. 123

RatnerPrestia
P.O. Box 980
Valley forge, PA 19482

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-25-09

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/508992 Patent No.: 7268503

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The request for Certificate of Correction filed 6/02/09 is denied because because the request creates a 112 issue in that a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. Claims 2,3,10,15 and 16 are non complaint with this requirement.

/Walter Benson/ — SPE

2837 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : November 13, 2009

Patent No. :7268503
Inventor :Yamasaki et al.
Patent Issued :September 11, 2007
Title :VIBRATION LINEAR ACTUATING DEVICE, METHOD OF DRIVING THE SAME :DEVICE, AND PORTABLE INFORMATION APPARATUS USING THE SAME DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Inspection of the application for the patent reveals that in connection with the alleged errors pertaining the Certificate of Correction filed June 2, 209; the printed data in the letters patent with regard to applicants request is in accordance with the records within the Patent and Trademark office. As the result of further review, it has been determined that the changes as presented are not warranted entry as applicants request creates a 112 issue that a claim previously set forth and then specify a further limitation of the subject matter claimed. Claims 2, 3, 10, 15 and 16 are non compliant with this requirement. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 and 323 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

/ Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-23-10

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10508992 Patent No.: 7268503

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The new request dated 1/11/10 fixes all 112 issues with claims 2, 3, 10, 15, and 16. Therefore, the request for certificate of correction is approved.

/Walter Benson/ — **SPE**

2837 — **Art Unit**

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

20 DEC 2005

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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22428
FOLEY AND LARDNER
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of :
KAUL, Vijay Kumar *et al* :
Application No.: 10/508,995 :
PCT No.: PCT/IB02/01205 :
Int. Filing Date: 25 March 2002 : **DECISION**
Priority Date: 25 March 2002 :
Attorney Docket No.: 056859-0201 :
For: ESSENTIAL OIL WITH CITRONELLOL :
AND ROSE OXIDES . . . :

This is a decision on the declaration filed on 21 October 2005 which has been treated under 37 CFR 1.42. No fee is required.

BACKGROUND

On 21 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 21 October 2005, applicants filed a response which was accompanied by, *inter alia*, five-month extension and fee and a declaration executed by five of the six joint inventors.

DISCUSSION

The declaration filed with the national stage papers is executed by five of the six named inventors. The fifth named inventor (Hans Raj Negi) is listed as deceased.

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

In this case, a legal representative or heir(s) of the deceased inventor must execute the declaration for the deceased inventor. It is also noted that the citizenship, residence and address of the legal representative(s) must be recorded on the

declaration pursuant to 37 CFR 1.497(b)(2).

Hence, the declaration filed 21 October 2005 does not comply with 37 CFR 1.497(a) & (b).

CONCLUSION

For the reason listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
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Tel.: (571) 272-3302

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20 JUL 2006

22428
FOLEY AND LARDNER
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of :
KAUL, Vijay Kumar *et al* :
Application No.: 10/508,995 :
PCT No.: PCT/IB02/01205 :
Int. Filing Date: 25 March 2002 : **DECISION**
Priority Date: 25 March 2002 :
Attorney Docket No.: 056859-0201 :
For: ESSENTIAL OIL WITH CITRONELLOL :
AND ROSE OXIDES . . . :

This is a decision on the papers filed on 25 May 2006 which have been treated as a renewed petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 20 December 2005, a decision dismissing applicant's petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 21 October 2005, applicants filed a request for reconsideration which was accompanied by, *inter alia*, four-month extension and fee and a copy of a court order for the deceased inventor.

DISCUSSION

Applicants previously submitted a declaration executed by five of the six named inventors. The fifth-named inventor (Hans Raj Negi) was listed as deceased and the signature block left blank.

A decision mailed 20 December 2005 noted that a legal representative or heir(s) of the deceased inventor must execute the declaration for the deceased inventor. The citizenship, residence and address of the legal representative(s) must be recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

In the renewed response, applicants have provided a court order showing that the legal representative of Dr. Negi is Mrs. Nartan Devi, grandmother of the minor heirs, Viraj Negi and Rudrakash Negi. However, petitioners have not submitted a

declaration signed by Mrs. Nartan Devi as required. Petitioners explain that "the following submission is the best possible evidence available and requests that the application be allowed to proceed."

Section 409.03(c) of the MPEP states, in part:

> 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given.

Here, the legal representative of the deceased inventor is known. As such, the procedures outlined in 37 CFR 1.47(a) should be followed if Mrs. Nartan Devi cannot be located or refuses to cooperate.

CONCLUSION

For the reason listed above, applicants' renewed petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

26 SEP 2008

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Washington, DC 20007

In re Application of
KAUL, Vijay Kumar *et al*
Application No.: 10/508,995
PCT No.: PCT/IB02/01205
Int. Filing Date: 25 March 2002
Priority Date: 25 March 2002
Attorney Docket No.: 056859-0201
For: ESSENTIAL OIL WITH CITRONELLOL AND ROSE OXIDES FROM DRACOCEPHALUM HETEROPHYLLUM BENTH AND A PROCESS THEREOF

DECISION

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181(a) " filed on 01 May 2008. No fee is required.

BACKGROUND

On 20 July 2006, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions of time available.

On 22 January 2007, applicant purportedly filed a response which was accompanied by, *inter alia*, a declaration executed by the legal representative of the deceased inventor along with authorization to charge the $130.00 surcharge fee to Deposit Account No. 12-1216.

On 03 March 2008, a Notice of Abandonment was mailed stating that the above-captioned application was abandoned because applicants failed to respond to the 20 July 2006 decision.

On 01 May 2008, applicant filed a petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 22 January 2007 with a date-stamped postcard receipt.

DISCUSSION

Petition to Withdraw Holding of Abandonment

A review of the subject application shows that the 22 January 2007 response purportedly filed in the above-captioned application was not located in the file[1].

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 22 January 2007. The postcard receipt records that among the papers received in the USPTO included a "Dec/POA executed by Devi Naritan (5 pgs.)." The postcard receipt is stamped "OIPE 22 JAN 2007" across its face. The U.S. application number and docket number are listed on the postcard receipt.

Applicants have provided *prima facie* evidence that the response was originally received by the USPTO on 22 January 2007 and misplaced.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

A timely response to the 20 July 2006 decision was filed.

The Notice of Abandonment mailed 03 March 2008 is hereby **VACATED**.

Petition Under 37 CFR 1.42

In the response originally filed 22 January 2007, applicants furnished a declaration signed by the legal representative of the deceased inventor, Hans Raj Negi.

37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration. 37 CFR 1.497(b)(2) states that the citizenship, residence, and mailing address of the legal representative of an inventor must also be recorded on the declaration.

---

[1] USPTO financial records show that the four-month extension fee of $1,590.00 was charged to a credit card in the subject application on 22 January 2007.

A review of the declaration submitted shows that citizenship, residence and mailing address information are listed in the box for the deceased inventor which was signed by the legal representative, Nartan Devi.

However, it is not clear if this information is for the legal representative, or the deceased joint inventor. Regardless, this information is required for both, and must be clearly identified as such on the declaration.

Accordingly, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b)[2] within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

[2] A declaration listing the required information for all inventors and the legal representative is required. The legal representative must execute this declaration. The five joint inventors are not required to execute another declaration.

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30 DEC 2009

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Washington, DC 20007

In re Application of :
KAUL *et al* :
Application No.: 10/508,995 :
PCT No.: PCT/IB2002/001205 :
Int. Filing Date: 25 March 2002 : **DECISION**
Priority Date: 25 March 2002 :
Attorney Docket No.: 056859-0201 :
For: ESSENTIAL OIL WITH CITRONELLOL :
AND ROSE OXIDES . . . :

This is a decision on the papers filed 23 January 2009 which are treated as a renewed petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 26 September 2008, a decision dismissing applicant's petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 23 January 2009, applicants filed a request for reconsideration which was accompanied by, *inter alia*, a two-month extension and $490.00 fee and a declaration executed by the legal representative of a deceased inventor.

DISCUSSION

In the subject response, applicants have provided a declaration signed by the legal representative of a deceased co-inventor, Hans Raj Negi. Applicants previously submitted a declaration executed by five of the six named inventors.

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A review of the declaration shows that it is in compliance with 37 CFR 1.497(a) and (b). The declaration lists the citizenship of each inventor (including the deceased inventor) pursuant to 37 CFR 1.497(a)(3). The declaration also records the citizenship,

residence and mailing address of the legal representative pursuant to 37 CFR 1.497(b)(2).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 March 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 23 January 2009.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN, NJ 07041

Mail Date: 04/21/2010

Applicant	: Ruth Chiquet-Ehrismann	: DECISION ON REQUEST FOR
Patent Number	: 7683159	: RECALCULATION of PATENT
Issue Date	: 03/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,009	: OF WYETH
Filed	: 05/03/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. None

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DEC 21 2005

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of
Richard Laurance Lewellin et al.
Application No. 10/509,010
Filed: September 24, 2004
Attorney Docket Number: 1866-6642US
Title: ENGINE FOR CONVERTING THERMAL ENERGY TO STORED ENERGY

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on December 2, 2005.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 10, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on November 11, 2005.

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Office of Patent Publication - (703) 308-6789.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

07 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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#3

BIRCH STEWART KOLASCH & BIRCH
PO Box 747
Falls Church, VA 22040-0747

In re Application of: BOZONNET, et al.	
U.S. Application No.: 10/509,024	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)
PCT No.: PCT/FR02/00951	
International Filing Date: 18 March 2002	
Priority Date: 16 March 2001	
Attorney's Docket No.: 2121-0183PUS1	
For: NUCLEIC ACID MOLECULES CODING FOR A DEXTRANSACCHARASE CATALYSING THE SYNTHESIS OF DEXTRAN WITH ALPHA 1,2 OSIDIC SIDECHAINS	

The petition to revive under 37 CFR 1.137(b) filed 27 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

The 27 September 2004 submission included an executed declaration and a translation of the international application into English. Deposit Account No. 02-2448 will be charged the $130 surcharge and $130 processing fee for filing these materials later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 September 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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SQUIRE, SANDERS & DEMPSEY L.L.P
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111-3492

COPY MAILED

MAY 19 2008

In re Application of :

CAKIRAL, Sabahattin :
Application No. 10/509,045 : DECISION ON PETITION
Filed: September 24, 2004 : TO WITHDRAW
Attorney Docket No. **060414.000009** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Song Zhu on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SABAHATTIN CAKIRAL**
SCHWARZER WEG 9
DARMSTADT, GERMANY 64287

cc: **THELEN REID BROWN RAYSMAN & STEINER, LLP**
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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#9

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

In re Application of	:	
CARTER	:	
Application No.: 10/509,049	:	DECISION ON
PCT No.: PCT/AU03/00343	:	
Int. Filing Date: 21 March 2003	:	PETITION UNDER
Priority Date: 22 March 2002	:	
Attorney Docket No.: 043153-9099-00	:	37 CFR 1.137(b)
For: A WHEELED ARRANGEMENT	:	

This decision is in response to applicants' submission filed 24 September 2004.

BACKGROUND

On 21 March 2003, applicants filed international application PCT/AU03/00343 which designated the U.S. and claimed a priority date of 22 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2004.

On 24 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 24 September 2004.

As to item (2), applicant submitted the petition fee on 24 September 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the declaration later than thirty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Andrea Giori	: DECISION ON REQUEST FOR
Patent Number	: 7582325	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **885** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
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Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Vincent Finkelstein	: DECISION ON REQUEST FOR
Patent Number	: 7627768	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/509,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

17 MAY 2005

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JONES DAY
222 East 41st Street
New York, NY 10017

In re Application of	
DONATH, Raoul	
Application No.: 10/509,075	
PCT No.: PCT/CH01/00682	
Int. Filing Date: 22 November 2001	**DECISION**
Priority Date: None	
Attorney Docket No.: 008932-1004-999	
For: DEVICE FOR JOINING A LONGITUDINAL SUPPORT WITH A BONE FIXATION MEANS	

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 22 September 2004 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee have been provided.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 November 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 September 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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GlaxoSMithKline
Global Patents-US, UW2220
PO Box 1539
King of Prussia, PA 19406-0939

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MAY 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,452,888 :
Ahmed et al. : DECISION UPON REMAND AND
Issue Date: November 18, 2008 : RECONSIDERATION OF
Application No. 10/509,078 : PATENT TERM ADJUSTMENT
Filed: September 27, 2004 : AND NOTICE OF INTENT
Attorney Docket No. P33024 : TO ISSUE CERTIFICATE OF
Title: Quinoline Derivatives : CORRECTION
and There Use As 5-HT6 Ligands :

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred forty-six (546) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred forty-six (546) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,452,888 B2

DATED : **November 18, 2008** **DRAFT**

INVENTOR(S) : Ahmed et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 372 days

Delete the phrase "by 372 days" and insert – by 546 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 10:16:08

PTA Calculations for Application: 10/509078			
Application Filing Date:	09/27/2004	PTO Delay (PTO):	498
Issue Date of Patent:	11/18/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	126
Post-Issue Petitions:	0	Total PTA (days):	546
PTO Delay Adjustment:	174		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	05/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	174		
78.5	10/29/2008	PTA 36 MONTHS			
78	11/18/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
77	10/20/2008	EXPORT TO FINAL DATA CAPTURE			
76	10/17/2008	DISPATCH TO FDC			
75	10/16/2008	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		34	
74	10/16/2008	EMAIL NOTIFICATION			
73	10/16/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
72	10/09/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
66	10/03/2008	PUBS CASE REMAND TO TC			
65	09/08/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
64	09/05/2008	ISSUE FEE PAYMENT VERIFIED			
63	09/05/2008	ISSUE FEE PAYMENT RECEIVED			
62	09/04/2008	EMAIL NOTIFICATION			
61	09/04/2008	FILING RECEIPT - CORRECTED			
60	08/04/2008	FINISHED INITIAL DATA CAPTURE			
59	07/30/2008	EMAIL NOTIFICATION			
58	07/30/2008	FILING RECEIPT - CORRECTED			
57	07/16/2008	WORKFLOW - QUERY REQUEST - FINISH			
56	07/14/2008	TC RETURN TO PUBS			
55	07/01/2008	PUBS CASE REMAND TO TC			
54	07/03/2008	WORKFLOW - QUERY REQUEST - BEGIN			

53	06/09/2008	EXPORT TO INITIAL DATA CAPTURE			
52	06/06/2008	ELECTRONIC REVIEW			
50	06/05/2008	MAIL NOTICE OF ALLOWANCE			
49	04/11/2008	ISSUE REVISION COMPLETED			
48	04/11/2008	DOCUMENT VERIFICATION			
47	04/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	04/11/2008	CASE DOCKETED TO EXAMINER IN GAU			
45	04/11/2008	NOTICE OF ALLOWABILITY			
44	03/21/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	03/20/2008	REFERENCE CAPTURE ON IDS			
42	03/20/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
41	03/22/2008	DATE FORWARDED TO EXAMINER			
40	03/20/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
39	03/22/2008	DATE FORWARDED TO EXAMINER			
38	03/20/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	03/22/2008	DISPOSAL FOR A RCE / CPA / R129			
36	03/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	03/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	02/19/2008	EMAIL NOTIFICATION			
33	02/19/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
32	02/12/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	12/25/2007	ELECTRONIC REVIEW			
30	12/22/2007	EMAIL NOTIFICATION			
29	12/21/2007	MAIL FINAL REJECTION (PTOL - 326)			
28	12/19/2007	FINAL REJECTION			
27	10/09/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	10/18/2007	DATE FORWARDED TO EXAMINER			
23	10/09/2007	RESPONSE AFTER NON-FINAL ACTION		92	18
22	10/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	10/09/2007	SUBSTITUTE SPECIFICATION FILED			

20	10/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/09/2007	MAIL NON-FINAL REJECTION	498		-1
17	04/02/2007	NON-FINAL REJECTION			
16	09/27/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	10/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	02/21/2007	PRELIMINARY AMENDMENT			
13	10/10/2006	REFERENCE CAPTURE ON IDS			
12.7	10/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/29/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	09/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	09/27/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8.7	09/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	09/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	09/27/2004	PRELIMINARY AMENDMENT			
6	02/28/2005	CLEARED BY OIPE CSR			
5	02/23/2005	CLEARED BY OIPE CSR			
4	09/27/2004	371 COMPLETION DATE			
3	02/14/2005	APPLICATION DISPATCHED FROM OIPE			
2	02/14/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	09/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Hugh Alexander Spikes	:	DECISION ON PETITION TO
Application Number: 10/509083	:	WITHDRAW HOLDING OF
Filing Date: 09/30/2004	:	ABANDONMENT
Attorney Docket Number: 550-594	:	

This is a decision on the petition filed on 10 August, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely and properly respond to the non-final Office action mailed on 28 August, 2006. On 6 August, 2007, Notice of Abandonment was mailed.

Petitioner asserts that a timely reply was filed in response to the non-final Office action mailed on 15 December, 2006, and that petitioner timely filed a reply on 25 April, 2007, to the Office communication mailed on 26 March, 2007.

A review of the record reveals the following:

1. On 30 September, 2004, the application was filed.

2. On 28 August, 2006, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

3. On 15 December, 2006, an amendment in response to the Office action was mailed, accompanied by, *inter alia*, a petition for a one (1) month extension of time, and the required fee, in accordance with 37 CFR 1.136(a).

4. On 26 March, 2007, an Office communication was mailed. The Office communication stated that the reply filed on 15 December, 2006, was not fully responsive to the prior Office action.

The Office communication also stated, in pertinent part:

> Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

5. On 25 April, 2007, an amendment was filed.

6. On 6 August, 2007, a Notice of Abandonment was mailed, stating the application was abandoned for failure to timely respond to the Office action mailed on 28 August, 2006.

7. On 10 August, 2007, the present petition was filed.

Petitioner asserts, essentially, that a new time period should have been given for submission of a response to the notice that the amendment was non-compliant. Thus, the application should not have been held abandoned for failure to timely reply to the Office action mailed on 28 August, 2006.

Upon review, petitioner's arguments are well taken:

At the outset, the Office communication mailed on 26 March, 2007, states, on the cover sheet, that the shortened statutory period of response is 30 days. As such, the showing is that applicant was given a 30 day shortened statutory period for reply.

Furthermore, MPEP 701 states, in pertinent part:

> F. Non-Compliant Amendments
>
> If an amendment submitted on or after July 30, 2003, fails to comply with 37 CFR 1.121 (as revised on June 30, 2003), the Office will notify applicant by a Notice of Non-Compliant Amendment, Form PTOL-324, that the amendment fails to comply with the requirements of 37 CFR 1.121 and identify: (1) which section of the amendment is non-compliant (e.g., the amendments to the claims section); (2) items that are required for compliance (e.g., a claim listing in compliance with 37 CFR 1.121(c)); and (3) the reasons why the section of the amendment fails to comply with 37 CFR 1.121 (e.g.,

> the status identifiers are missing). The type of amendment will determine whether applicant will be given a period of time in which to comply with the rule and whether applicant's reply to a notice should consist of the corrected section of the amendment (e.g., a complete claim listing in compliance of 37 CFR 1.121(c)) instead of the entire corrected amendment. If the noncompliant amendment is:
>
> ...
>
> (C) A non-final amendment including an amendment filed as a submission for an RCE, the TSS will send the notice which sets a time period of 30 days or one month, whichever is later, for reply. Extensions of time are available under 37 CFR 1.136(a). Failure to reply to this notice will result in abandonment of the application. Applicant's reply is required to include the corrected section of the amendment.

As such, the application should not have been held abandoned for failure to timely respond to the Office action mailed on 28 August, 2006. Additionally, applicant timely filed a reply to the Office communication mailed on 26 March, 2007, by filing the amendment filed on 25 April, 2007.

The showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application will be forwarded to the Technology Center for consideration of the amendment filed on 25 April, 2007.

The application is being referred to Technology Center Art Unit 3682 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

04 AUG 2005

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FISH & RICHARDSON P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of :
SANDERSON, Albert E. *et al* :
U.S. Application No.: 10/509,115 :
PCT No.: PCT/US03/09702 :
Int. Filing Date: 31 March 2003 : **DECISION**
Priority Date: 01 April 2002 :
Attorney's Docket No.: 09850-016US1 :
For: VARIABLE STROKE/CLEARANCE :
MECHANISM :

This is a decision on the request to add an inventor in the above-captioned application filed 22 July 2005 pursuant to 37 CFR 1.497(d). The $130.00 petition fee has been paid

BACKGROUND

On 17 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that the declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 16 June 2005, applicants filed a response which included a one-month extension request and fee, a surcharge fee and an executed declaration.

On 22 June 2005, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted was not in compliance with 37 CFR 1.497(a) and (b) because the second inventor was not listed as an inventor on the international publication.

On 22 July 2005, applicants filed the subject petition which was accompanied by, *inter alia*, the petition fee; a "Statement of Inventor to be Added"; a "Consent of Assignee to Addition of Inventor Under 37 CFR 1.497(d)"; and an assignment.

DISCUSSION

Applicants request to add John Dieckmann as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(l); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by John Dieckmann who requests to be added as an inventor in the above-captioned application. Mr. Dieckmann declares that "[a]ny error in inventorship . . . occurred without deceptive intention on my part." The processing fee of $130.00 has been paid. Applicants also submitted a document titled "Consent of Assignee to Addition of Inventor Under 37 CFR 1.497(d)" consenting to the change of inventorship in the above-identified application. This document was signed by the President of R. Sanderson Management, Inc., the assignee. The position of President is a position recognized as having the authority to sign for a corporation. *See* § 324 MPEP.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 31 March 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 16 June 2005.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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APR 17 2009

OFFICE OF PETITIONS

In re Application of :
GRACZYK et al. :
Application No. 10/509,128 : ON APPLICATION FOR
Filed: July 28, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 0102286.00154US1 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705" filed February 18, 2009. Applicant requests that the determination of patent term adjustment be increased from 164 days to "the total number of days (205 days as of February 18, 2009) under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the Patent Office delay in issuing the patent after July 28, 2008 (three years from the filing date) until the actual issue date of the patent (to be determined)." Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will

not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Patent No. 7,534,800	:	DECISION ON REQUEST FOR
GRACZYK et al.	:	RECONSIDERATION OF
Issue Date: May 19, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/509,128	:	AND NOTICE OF INTENT TO ISSUE
Filed: July 28, 2005	:	CERTIFICATE OF CORRECTION
Docket No. 0102286.00154US1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed May 21, 2009, and the SUPPLEMENTAL REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed June 5, 2009, which are properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from two hundred sixty-four (264) days to four hundred fifty-nine (459) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **568 days**.

On May 19, 2009, the above-identified application matured into U.S. Patent No. 7,534,800. The patent issued with a revised patent term adjustment of 264 days. The present request for reconsideration of patent term adjustment was timely filed on May

21, 2009, and supplemented on June 5, 2009, within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees aver that the correct number of days of patent term adjustment is 459 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Patentees maintain that the total period of Office delay is the sum of the period of Three Year Delay[1] (284 days) and the period of examination delay[2] (345 days)[3] to the extent that these periods of delay are not

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

[2] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A Restriction Requirement was mailed on April 11, 2007, 14 months and 195 days after the date on which the requirements under 35 U.S.C. 371 were fulfilled on July 28, 2005.

overlapping. Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees assert that they are entitled to the sum of 195 days of examination delay - 31 days of applicant delay + 295 days of Three Year Delay, for a total patent term adjustment of 459 days.

At the outset, the Office notes that period of delay of 295 days, pursuant to 37 CFR 1.702(b), for the Office taking in excess of three years to issue the patent is incorrect. A review of the record indicates that the Office did not use the correct 35 U.S.C. 371(b) national stage commencement date of September 28, 2004, in calculating the period of adjustment under 37 CFR 1.703(b). As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued. While the date of completion of all 35 U.S.C. 371 requirements, July 28, 2005, is the date used in calculation of the examination delay under 37 CFR 1.703(a), the date the national stage commenced under 35 U.S.C. 371(b) or (f), September 28, 2004, is used to determine the Three Year Delay under 37 CFR 1.703(b).

Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 599 days, counting the number of days beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371, September 29, 2007, and ending on the date the patent issued, May 19, 2009.

As to patentees' interpretation of the period of overlap, the Office finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the

---

[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office, July 28, 2005 to May 19, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 195 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 599 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date the national stage commenced under 35 U.S.C. 371(b) or (f).

The 599 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 195 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 599 days and the 195 days is neither permitted nor warranted. 599 days is the actual number of days issuance of the patent was delayed. Accordingly, the additional period of adjustment of 100 days entered by the Office for failing to issue the patent within three years is being removed and the correct period of 404 days is being entered.

In view thereof, the patent term adjustment indicated on the patent should be 568 days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate

of correction indicating that the term of the above-identified patent is extended or adjusted by 568 days.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT copy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,800 B2

DATED : May 19, 2009

INVENTOR(S) : Graczyk et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (264) days

Delete the phrase "by 264 days" and insert – by 568 days--

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OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Patent No. 7,534,800	:	DECISION ON REQUEST FOR
GRACZYK et al.	:	RECONSIDERATION OF
Issue Date: May 19, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/509,128	:	AND
Filed: July 28, 2005	:	NOTICE OF INTENT TO ISSUE
Docket No. 0102286.00154US1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 12, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred sixty-three (763) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred sixty-three (763) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred sixty-three (763) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,800 B2

DATED : May 19, 2009 **DRAFT**

INVENTOR(S) : Graczyk et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 568 days

Delete the phrase "by 568 days" and insert – by 763 days--

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ERIC CHAN
42 PIN OAKS DRIVE
PHOENIXVILLE, PA 19460

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OFFICE OF PETITIONS

In re Application of :
Wai Yip Wai Wong :
Application No. 10/509,153 : ON PETITION
Filed: September 28, 2004 :
Attorney Docket No. 6018 :

This is a decision on the petition under 37 CFR 1.137(b), filed, December 13, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

A petition to revive cannot be granted where there is an outstanding requirement(s). The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed June 15, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 16, 2007.

The Office received $1770 on December 13, 2007 by credit card ($770 petition fee, $300 publication fee and $700 Issue fee). However, effective September 30, 2007, the Issue fee is $720 which leaves a balance of $20. This petition can not be revive until the $20 Issue fee balance is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ERIC CHAN
42 PIN OAKS DRIVE
PHOENIXVILLE, PA 19460

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OFFICE OF PETITIONS

In re Application of
Wai Yip Wong
Application No. 10/509,153
Filed: September 28, 2004
Attorney Docket No. 6018

ON PETITION

This is a decision on the renewed petition filed June 18, 2008 which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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David Klein
Dekek Patent
Beit HaRof'im
18 Menuha VeNahala Street Room 27
Rehovot 76209 IL ISRAEL

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OFFICE OF PETITIONS

In re Application of :
Yitshak Tzuk et al :
Application No. 10/509,161 : DECISION ON PETITION
Filed: September 28, 2004 :
Attorney Docket No. 1293S04-US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 16, 2006. A Notice of Abandonment was mailed on March 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of August 15, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

This application is being referred to Technology Center AU 2828 for appropriate action in the normal course of business on the reply received June 6, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

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OFFICE OF PETITIONS

In re Patent No. 7,622,464	:
Ancliff et al.	: DECISION ON REQUEST FOR
Issue Date: November 24, 2009	: RECONSIDERATION OF
Application No. 10/509,162	: PATENT TERM ADJUSTMENT
Filed: June 10, 2005	: AND NOTICE OF INTENT
Attorney Docket No. PG4784USW	: TO ISSUE CERTIFICATE OF
Title: MORPHOLINYL-UREA	: CORRECTION
DERIVATIVES FOR USE IN THE	:
TREATMENT OF INFLAMMATORY	:
DISEASES.	:

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eight (1,108) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand forty-six (1,046) days is **GRANTED to the extent indicated herein.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 600 days (August 11, 2006 to April 1, 2008).

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 788 days (September 29, 2007 to November 24, 2009).

The period of reduction for applicant delay totals 156 days. Two reductions pursuant to 37 CFR 1.704(b) were taken for a 92-day reduction (July 2, 2008 to October 1, 2008) and a 64-day reduction (March 27, 2009 to May 29, 2009).

The period of adjustment under 37 CFR 1.702(a) and (b) must be reduced due to applicant delay of 156 days.

The period of 37 CFR 1.702(a) and 1.702(b) days, which overlap, total 186 days (September 29, 2007 to April 1, 2008).

In view thereof, the patent is entitled to an overall adjustment of 1046 days (600 days under 37 CFR 1.702(a) + 788 days under 37 CFR 1.702(b) - 156 days of applicant delay - 186 days of overlap).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand forty-six **(1046)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,622,464 B2

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Ancliff et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 444 days

Delete the phrase "by 444 days" and insert – by 1046 days--

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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In re Application of	:	
Nickolaos Robakis et al.	:	
Application No. 10/509,170	:	DECISION ON PETITION
Filed: May 19, 2005	:	PURSUANT TO
Attorney Docket No. 58236US	:	37 C.F.R. § 1.181(A)
Title: PEPTIDES DERIVED FROM	:	
CADHERIN AND METHODS OF USE	:	
THEREOF	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on October 17, 2008.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 6, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 7, 2008. A notice of abandonment was mailed on September 15, 2008.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has alleged that a response was timely filed on September 8, 2008.[1] Petitioner has further included a copy of this response (an amendment and a petition for a three-month extension of time), and it is noted that it contains a certificate of mailing dated September 8, 2008. Petitioner has also included a statement that attests on a personal knowledge basis to the previous timely mailing.

The electronic file has been reviewed, and a copy of this response has been located in the same. Moreover, Office records reflect the receipt of the fee that is associated with the filing of a petition for a three-month extension of time on September 11, 2008.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that

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1 It is noted that September 6, 2008 fell on a Saturday.

change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Technology Center 1600 will be made aware of this decision, so that amendment that was received on September 11, 2008 can be considered in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

04 APR 2005

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ALEXANDRIA, VA 22313-1450
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Peter F. Corless
Edwards & Angell, LLP
P.O. Box 55874
Boston, MA 02205

In re Application of :
WINKLER et al. :
Application No.: 10/509,172 : DECISION ON PETITION
PCT No.: PCT/US03/04705 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 14 February 2003 :
Priority Date: 14 February 2002 :
Attorney Docket No.: 56927(2048) :
For: EVERYDAY WIRELESS VEHICLE NOTIFICATION AND VEHICLE LOCATION SYSTEMS AND METHODS RELATED THERETO

The "Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)" filed 21 September 2004 is being treated as a petition to revive under 37 CFR 1.137(b). The petition to revive under 37 CFR 1.137(b) in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,344,711 : DECISION ON APPLICATION FOR
Issued: March 18, 2008 : PATENT TERM ADJUSTMENT and
Application No. 10/509,194 : NOTICE OF INTENT TO ISSUE
Filed: September 23, 2004 : CERTIFICATE OF CORRECTION
Dkt. No.: 16596-049US1 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(D)," filed March 19, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED IN PART and DISMISSED IN PART**.

The above-identified application matured into U.S. Patent No. 7,344,711 on March 18, 2008. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 346 days. Patentees argue that the patent is entitled to an adjustment of 520 days.

An overall adjustment of 404 days can be attributed to the Office. Specifically, an adjustment of 393 days under 37 CFR 1.702(a)(1) and an adjustment of 11 days under 37 CFR 1.702(a)(4) can be attributed to the Office.

The adjustment of 404 days was properly reduced 50 days under 37 CFR 1.704(b) in connection with the response after non-final action filed May 10, 2007.

Patentees argue that the reduction of eight days under 37 CFR 1.704(c)(10) assessed in connection with the information disclosure statement (IDS) filed October 24, 2007 is improper. Patentees argue that the IDS was originally submitted November 5, 2005, but was not entered into the file or considered by the examiner.

The submission of November 5, 2005 does not appear in the record. However, patentees have established that the IDS filed October 24, 2007 was a courtesy copy of the IDS filed November

5, 2005, as acknowledged by the examiner on October 31, 2007. In view thereof, the reduction of eight days has been removed.

Patentees argue that the patent is entitled to an additional adjustment of 166 days for the Office's failure to issue the patent within three years from the date upon which the application was filed.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 C.F.R. § 1.704(b)), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Red. Reg. 21704 (April 22, 2004).

In view thereof, the instant patent is not entitled to further adjustment.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 354 days.

Any request for reconsideration of this decision must be submitted within two months of the mail date of the instant decision. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The Office acknowledges receipt of the required fee of $200.00 for an application for patent term adjustment.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 354 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,344,711 B2
DATED	:	March 18, 2008
INVENTOR(S)	:	Bonastre, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 346 days

Delete the phrase "by 346 days" and insert – by 354 days--

Day : Monday
Date: 8/25/2008

PALM INTRANET

Time: 12:26:04

PTA Calculations for Application: 10/509194			
Application Filing Date:	09/23/2004	PTO Delay (PTO):	404
Issue Date of Patent:	03/18/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	58
Post-Issue Petitions:	0	Total PTA (days):	354
PTO Delay Adjustment:	8		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	08/25/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	8		
63.5	02/27/2008	PTA 36 MONTHS			
63	03/18/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	11		59
62	01/15/2008	EXPORT TO FINAL DATA CAPTURE			
61	01/14/2008	DISPATCH TO FDC			
60	11/09/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
59	11/07/2007	ISSUE FEE PAYMENT VERIFIED			
58	11/07/2007	ISSUE FEE PAYMENT RECEIVED			
57	10/31/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
56	10/29/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
55	10/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	10/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	10/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	57
52	10/15/2007	FINISHED INITIAL DATA CAPTURE			
51	10/15/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
50	09/28/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
49	09/18/2007	EXPORT TO INITIAL DATA CAPTURE			
48	09/14/2007	MAIL NOTICE OF ALLOWANCE			
47	09/14/2007	MAIL EXAMINER'S AMENDMENT			
46	09/13/2007	ISSUE REVISION COMPLETED			

45	09/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	09/04/2007	DOCUMENT VERIFICATION			
43	09/04/2007	EXAMINER'S AMENDMENT COMMUNICATION			
42	08/31/2007	NOTICE OF ALLOWABILITY			
41	08/24/2007	DATE FORWARDED TO EXAMINER			
40	08/23/2007	AMENDMENT AFTER FINAL REJECTION			
39	08/14/2007	MAIL ADVISORY ACTION (PTOL - 303)			
38	08/13/2007	ADVISORY ACTION (PTOL-303)			
37	08/07/2007	DATE FORWARDED TO EXAMINER			
36	08/03/2007	AMENDMENT AFTER FINAL REJECTION			
35	06/07/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	06/05/2007	FINAL REJECTION			
33	03/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	05/16/2007	DATE FORWARDED TO EXAMINER			
31	05/10/2007	RESPONSE AFTER NON-FINAL ACTION		50	25
30	04/30/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
29	04/11/2007	CORRESPONDENCE ADDRESS CHANGE			
28	04/09/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27.7	03/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	04/09/2007	DATE FORWARDED TO EXAMINER			
25.1	03/21/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
25	03/21/2007	RESPONSE AFTER NON-FINAL ACTION			
24	12/21/2006	MAIL NON-FINAL REJECTION	393		-1
23	12/18/2006	NON-FINAL REJECTION			
22	02/24/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	09/20/2006	PRELIMINARY AMENDMENT			
20	09/01/2006	MAIL NON-COMPLIANT PRELIMINARY AMENDMENT			
19	09/01/2006	NON-COMPLIANT PRELIMINARY AMENDMENT			
18	09/23/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			

17	02/24/2005	REFERENCE CAPTURE ON IDS			
16.7	02/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/23/2004	PRELIMINARY AMENDMENT			
14	08/29/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	08/29/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	08/29/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	07/05/2006	CLEARED BY OIPE CSR			
10	09/23/2004	371 COMPLETION DATE			
9	06/26/2006	APPLICATION DISPATCHED FROM OIPE			
8	06/26/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	05/11/2005	ADDITIONAL APPLICATION FILING FEES			
6	02/24/2005	COPY OF REFERENCES CITED IN INTERNATIONAL SEARCH REPORT			
5	05/11/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
4	05/11/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
3	05/17/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	04/18/2005	SEQUENCE DISCLOSURE PROBLEMS			
1	09/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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WENDEROTH LIND & PONACK, L.L.P.
2033 "K", NW, SUITE 800
WASHINGTON, D.C. 20006-1021

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of :
Koki Ikeda et al :
Application No. 10/509,222 : ON PETITION
Filed: November 9, 2004 :
Attorney Docket No. 2004 1539A

This is a decision on the petition filed, May 30, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 24, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Jason Bellinger, at (571) 272-6680.

Robert J. Oberleitner
Director, Technology Center 3600
(571) 272-5350

SJM/KJD: 3/1/06

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FROM DIRECTORS OFFICE

MAR 0 2 2006

TECHNOLOGY CENTER 3600

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

In re Application of KURAMORI ET AL.
Appl. No.: 10/509,229
Filed: September 24, 2004
For: Tire/Wheel Assembly

DECISION ON PETITON FROM RESTRICTION REQUIREMENT
37 CFR 1.144

This is a decision on the petition filed January 13, 2006 for supervisory review of an examiner's restriction requirement under 37 CFR 1.144. Petitioner requests the relief of withdrawal of the restriction requirement.

The petition is **Granted**.

In the instant application, restriction was required in the Office action of July 06, 2005 between two identified groups, Group I corresponding to claims 1-3 and Group II corresponding to claims 4-6. This requirement was made final in the Office action of October 31, 2005, although the examiner indicated in that Office action that all claims were going to be examined upon reconsideration. Since restriction is between distinct *claimed* inventions, and the examiner agreed that all of the claims pending at the time of the October 31, 2005 Office action read on a single (the "elected") invention, the restriction requirement should not have been made final. Petitioner is entitled to the relief requested, and the restriction requirement that was made final by the October 31, 2005 Office action is hereby withdrawn. It should be noted that this petition is being granted based on the fact that all claims pending at the time of the October 31, 2005 Office action are common to a single invention, and nothing in this decision precludes a potential future restriction requirement should the claims be amended at some point to distinctly claim more than one properly restrictable invention.

The application is being returned to the examiner for consideration of the amendment filed January 13, 2006.

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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MAR 03 2008

In re Application of
Georg Michelson et al.
Application No. 10/509,265
Filed: June 28, 2005
Attorney Docket No.: **F-8241**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the Final Office action mailed June 7, 2007, which set a three (3) month shortened statutory period for reply. A two month extension of time under 37 CFR 1.136(a) was obtained, however, the response filed November 7, 2007 did not place the application in condition for allowance. An advisory action was mailed December 5, 2007. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The Notice of Appeal filed December 17, 2007 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

The filing on December 26, 2007 of a Request for Continued Examination (RCE) and Amendment as the submission under 37 CFR 1.114 is acknowledged.

This matter is being referred to Technology Center 2873 for processing of the Notice of Appeal and the RCE.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

30 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
One International Place
Boston, MA 02110-2624

In re Application of :
BRORS *et al* :
U.S. Application No.: 10/509,275 :
PCT No.: PCT/EP03/03291 :
Int. Filing Date: 28 March 2003 :
Priority Date: 28 March 2002 : **DECISION**
Attorney Docket No.: VOSS-P01-011 :
For: METHOD AND SYSTEM FOR :
DETERMINING ABSOLUTE MRNA :
QUANTITIES :

This is a decision on the papers filed via facsimile on 08 September 2005. No fee is required.

BACKGROUND

On 27 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, appropriate fees paid for a large entity.

On 22 November 2004, applicants purportedly a document titled "Assertion of Small Entity Status Under 37 CFR § 1.27(C) and Request for Refund Under 37 CFR § 1.28." This document was not located in the file.

On 27 June 2005, DO/EO/US mailed a filing receipt and a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 (Form PCT/DO/EO/903). Applicants were not listed as a small entity on either document.

On 06 July 2005, applicants purportedly filed via facsimile a "Request for Corrected Filing Receipt" which was accompanied by, *inter alia*, a copy of the document requesting small entity status purportedly filed 18 November 2004 along with a date-stamped postcard receipt for those documents. This facsimile was also not located in the file.

On 08 September 2005, applicants filed via facsimile a copy of the documents filed 06 July 2005 and a copy of the "Auto-Reply Facsimile Transmission" received from the USPTO for those documents.

DISCUSSION

The copy of the "Auto-Reply Facsimile Transmission" is sufficient to show that the papers were was originally filed via facsimile on 06 July 2005.

Small Entity Status Filed 22 November 2004

The assertion of small entity status purportedly filed 22 November 2004 was not located in the file. MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Here, applicants provided a copy of the date-stamped postcard receipt for documents submitted on 22 November 2004. The postcard receipt clearly identified the application by the application number, docket number and title. The postcard receipt indicates that the following document was received in the USPTO: Assertion of Small Entity Status and request for Refund. The postcard receipt is stamped "OIPE NOV 22 2004" and "DT03 Rec'd PCT/PTO 22 NOV 2004" across its face.

Accordingly, applicants have provided *prima facie* evidence that the small entity assertion was received by the Office on 22 November 2004.

Request for Refund

In the paper originally filed 22 November 2004, applicants requested a refund of one-half the basic national fee. 37 CFR 1.28 (a) states, in part that:

> A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

Applicants submitted the change in status to a small entity on 22 November 2004 which is within the three-month time period required as the transmittal letter was filed 27 September 2004.

Therefore, applicants' request for a refund is **GRANTED**.

Request for Corrected Filing Receipt

Applicants also requested that the filing receipt be corrected to show the proper "FIL FEE REC'D," name of assignee, and status as a small entity.

A review of the application shows that the filing receipt mailed 27 June 2005 incorrectly spelled the name of the assignee. Moreover, applicants' status to a small entity changed as a result of this decision and needs to be reflected on both the filing receipt and Form PCT/DO/EO/903.

Accordingly, the filing receipt and Form PCT/DO/EO/903 mailed 27 June 2005 are hereby **VACATED**.

CONCLUSION

Applicants' request for a refund pursuant to 37 CFR 1.28(a) and request for a corrected filing receipt are **GRANTED**.

A corrected filing receipt and Form PCT/DO/EO/903 will be mailed with this decision. Counsel's Deposit Account No. 18-1945 has been credited $605.00.

The above-captioned application will be forwarded to Technology Center 1600 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/509,275	Benedikt J Brors	VOSS-P01-011

INTERNATIONAL APPLICATION NO.	
PCT/EP03/03291	
I.A. FILING DATE	PRIORITY DATE
03/28/2003	03/28/2002

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

CONFIRMATION NO. 7663

371 WITHDRAWAL NOTICE

OC000000017145089

Date Mailed: 09/29/2005

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

It has come to the attention of the Office that the Notice mailed on 06/27/2005 was sent in error. Please disregard that Notice. The application is complete and will be processed for examination. The Official Filing Receipt is enclosed. We apologize for any inconvenience this has caused.

FREDERICK SMITH

Telephone: (703) 308-9140 EXT 210

PART 1 - ATTORNEY/APPLICANT COPY

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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/509,275	Benedikt J Brors	VOSS-P01-011

INTERNATIONAL APPLICATION NO.	
PCT/EP03/03291	
I.A. FILING DATE	PRIORITY DATE
03/28/2003	03/28/2002

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

CONFIRMATION NO. 7663

371 ACCEPTANCE LETTER

OC000000017145116

Date Mailed: 09/29/2005

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

05/25/2005	05/25/2005
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Indication of Small Entity Status
- Copy of the International Application filed on 09/27/2004
- Copy of the International Search Report filed on 09/27/2004
- Preliminary Amendments filed on 09/27/2004
- Information Disclosure Statements filed on 09/27/2004
- Oath or Declaration filed on 05/25/2005
- Small Entity Statement filed on 11/18/2004
- U.S. Basic National Fees filed on 09/27/2004
- Priority Documents filed on 09/27/2004

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

FREDERICK SMITH
Telephone: (703) 308-9140 EXT 210

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/903 (371 Acceptance Notice)

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/509,275	05/25/2005	1653	670	VOSS-P01-011	3	16	2

CONFIRMATION NO. 7663

FILING RECEIPT

OC000000017145115

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Date Mailed: 09/29/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Benedikt J Brors, Heidelberg, GERMANY;
Nicole Hauser, Heidelberg, GERMANY;
Martin Vingron, Berlin, GERMANY;

Assignment For Published Patent Application

Deutsches Krebsforschungszentrum, Heidelberg, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **28120**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP03/03291 03/28/2003

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02007267.4 03/28/2002

If Required, Foreign Filing License Granted: 09/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/509,275

Projected Publication Date: 11/17/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for determining absolute mrna quantities

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,622,480	:	DECISION ON REQUEST FOR
Fonquerna Pou et al.	:	RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/509,279	:	NOTICE OF INTENT TO ISSUE
Filed: May 5, 2005	:	CERTIFICATE OF CORRECTION
Atty. Docket No. 09605.0001	:	

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred fifty-six (1356) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand one hundred ninety-four (1194) days.**

In the present petition, patentee incorrectly calculated the periods of B delay and overlap. The B period is 785 days, not 784 days as calculated by patentee. The period of adjustment under § 1.702(b) begins on the day after the date that is three years after the date on which the application commenced under 35 U.S.C. 371(b) or (f) and ends on the date the patent issued, but not including the sums of the periods under 37 CFR 1.702(b)(1)-(4). See 37 CFR 1.703(b). Thus, counting begins on October 2, 2007, and ends on November 24, 2009.

Patentee acknowledged one day of overlap on February 4, 2009. However, patentee did not take into consideration the 163 days

of overlap between A Delay and B Delay, beginning on October 2, 2007, and ending on March 12, 2008. See 35 USC 154(b)(2)(A) and 37 CFR 1.137(f). Thus, the total period of overlap is 164 days.

Accordingly, the patent term adjustment is 1194 days (617 days of A delay + 785 days of B delay - 164 days of overlap - 44 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the payment of the $200.00 fee set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred ninety-four (1194) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,622,480 B2

DATED: Nov. 24, 2009 **DRAFT**

INVENTOR(S): Fonquerna Pou et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 573 days

Delete the phrase "by 573 days" and insert – by 1194 days--

PTA Calculations for Application: 10/509279			
Application Filing Date:	05/05/2005	PTO Delay (PTO):	617
Issue Date of Patent:	11/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	44
Post-Issue Petitions:	0	Total PTA (days):	1194
PTO Delay Adjustment:	621		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	07/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	621		
50.5	11/04/2009	PTA 36 MONTHS			
50	11/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
49	10/21/2009	EXPORT TO FINAL DATA CAPTURE			
48	10/20/2009	DISPATCH TO FDC			
47	10/20/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
46	10/15/2009	ISSUE FEE PAYMENT VERIFIED			
45	10/15/2009	ISSUE FEE PAYMENT RECEIVED			
44	09/22/2009	FINISHED INITIAL DATA CAPTURE			
43	07/28/2009	EXPORT TO INITIAL DATA CAPTURE			
42	07/23/2009	MAIL NOTICE OF ALLOWANCE			
41	07/21/2009	ISSUE REVISION COMPLETED			
40	07/21/2009	DOCUMENT VERIFICATION			
39	07/20/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	07/20/2009	CASE DOCKETED TO EXAMINER IN GAU			
37	07/20/2009	NOTICE OF ALLOWABILITY			
36	06/18/2009	DATE FORWARDED TO EXAMINER			
35	06/17/2009	AMENDMENT AFTER FINAL REJECTION		44	33
34	06/17/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	02/04/2009	MAIL FINAL REJECTION (PTOL - 326)	1		30
32	02/02/2009	FINAL REJECTION			
31	10/29/2008	DATE FORWARDED TO EXAMINER			
30	10/03/2008	RESPONSE AFTER NON-FINAL ACTION			

29	07/03/2008	MAIL NON-FINAL REJECTION			
28	07/02/2008	NON-FINAL REJECTION			
24	06/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	05/08/2008	DATE FORWARDED TO EXAMINER			
22	04/14/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
21	03/12/2008	MAIL RESTRICTION REQUIREMENT	616		7
20	03/05/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
19	02/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
18	08/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	08/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	06/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	12/29/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	09/27/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11.7	06/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	05/05/2005	371 COMPLETION DATE			
6	05/16/2005	APPLICATION DISPATCHED FROM OIPE			
5	05/16/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	05/05/2005	ADDITIONAL APPLICATION FILING FEES			
3	05/05/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SEP 2 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,498,338	:	LETTER REGARDING PATENT
Vidal Juan, et al.	:	TERM ADJUSTMENT AND
Issue Date: March 17, 2009	:	NOTICE OF INTENT TO ISSUE
Application No. 10/509,280	:	CERTIFICATE OF CORRECTION
Filed: May 5, 2005	:	
Attorney Docket No. 09605-.0002	:	

This is in response to the "APPLICATINO FOR PATENT TERM ADJUSTMENT - POST GRANT," filed May 15, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred fifty-two (152) days to four hundred fifty-nine(459) days. For the reasons set forth herein, the request for reconsideration is being treated as a request that the revised patent term adjustment be corrected one hundred fifty-two (152)days to three hundred and eight(308) days.

The request for reconsideration of patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred and eight(308) days.**

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,498,338 with a patent term adjustment of 152 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 307 days of the of 316 days, and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 377 days do not overlap, as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is 316 days. Patentees calculate this 316 day period based on the application having been filed under 35 U.S.C. §371 on May 5, 2005, and the patent having not issued until March 17, 2009, three years and 316 days later.

Patentees are informed that the Three Year Delay period is triggered by the application's commencement date, not the § 371 fulfillment date. The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is April 1, 2002. Thirty months from that date is October 1, 2004, which is the beginning of the Three Year Delay period. Accordingly, the period of adjustment under § 1.702(b) is 533 days, counting the number of days beginning on October 2, 2007 and ending on March 17, 2009 when the patent issued.

Patentees assert that in addition to the three year delay period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 377 days. This 377 day period is the sum of:

- a period of delay of 237 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the

date the application fulfilled the requirements of 35 U.S.C. 371 in an international application, pursuant to § 1.702(a)(1);

- a period of delay of 131 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2); and

- a period of delay of 9 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2);

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 225 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Year Delay (316 days per patentees' calculation) and the period of Examination Delay (377 days, not in dispute) **to the extent that these periods of delay are not overlapping.**

Patentees contend there is a nine (9)day period of overlap. Patentees argue the entire 9 day period from October 23, 2008 to October 31, 2008 overlaps with a portion of the three year delay period, from May 6, 2008 to March 17, 2009. However, as discussed above, the Three Year Delay period is from October 2, 2007 to March 17, 2009. Therefore, applying patentees' definition of overlap, the period of delay of 131 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2), (October 26, 2007 to March 4, 2008) overlaps with a portion of the Three Year Delay period (October 2, 2007 to March 17, 2009), also. This overlapping period is the entire 131 day period. Considering that the three-year period is properly calculated based on the commencement date and is 533 days, not 316 days, and that the period of overlap is 140 (131 + 9) days, applying patentees' definition of

overlap to the correct three-year period, patentees assertion of the total period of Office delay is considered to be 770 days, which is the sum of the period of Three Year Delay (533 days) and the period of Examination Delay (377 days), reduced by the period of overlap (140 days).

Considering that the three-year period is properly calculated based on the commencement date and is 533 days, not 316 days, and that the period of overlap is 140 days, applying patentees' definition of overlap to the correct three-year period, patentees assertion of entitlement to a patent term adjustment is considered to be 545 days (533 + 377 reduced by 140 overlap - 225 for applicant delay).

As discussed above, the Office states that the patent issued 3 years and 533 days after the application's commencement date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment of 377 days is correct. At issue is whether Patentees should accrue 393 (adjusted for overlap, per patentees' definition of overlap and Office's calculation of the Three Year Delay Period) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 377 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 377 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the

> actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation

of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

three years after the commencement date overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the commencement date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the application's commencement date through the date it matured into Patent No. 7,504,398, October 1, 2004 to March 17, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Therefore, 156 days, not 0 days, of patent term adjustment should have been entered for the Three Year Delay period, since the period of delay of 533 days attributable to the delay in the issuance of the patent overlaps with the adjustments of 377 days attributable to the grounds specified in § 1.702(a)(1) and § 1.702(a)(2). 533 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 533 days over three years and the 377 days of examination delay. Accordingly, 156 days (533 - 377) should have been entered at issuance for a total Office day of 533 days.

As such, patentees are entitled to a patent term adjustment of 308 days (377 days examination delay + 533 days Three Year delay reduced by 377 overlap - 225 days for applicant delay).

Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred and eight (308) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is adjusted by three hundred and eight(308) days.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,398 B2

DATED : March 17, 2009

INVENTOR(S) : Bernat Vidal Juan, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by (152) days

Delete the phrase "by 152 days" and insert – by 308 days--

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Patent No. : 7,651,981 B2
Ser. No. : 10/509,281
Inventor(s) : Eagland et al.
Issued : Jan. 26, 2010
Title : RECOVERING MATERIALS
Docket No. : 2953-224
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
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Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

21 OCT 2004

#3

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Richard H. Tushin
Dykema Gossett PLLC
1300 I Street, NW
Third Floor West
Washington, D.C. 20005-3353

In re Application of :
NEUMANN, Joachim :
Application No.: 10/509,282 : DECISION ON PETITION
PCT No.: PCT/DK03/00103 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 17 February 2003 :
Priority Date: 26 March 2002 :
Attorney Docket No.: 66722-058-7 :
For: METHOD FOR DYNAMIC DETERMINATION OF TIME CONSTANTS, METHOD FOR LEVEL DETECTION. . . . :

The petition to revive under 37 CFR 1.137(b) filed 28 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

14 JUL 2005

#4

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Garth Paton
Unit 1, 66 Wolseley Road
Point Piper
Sydney, NSW 2027
AUSTRALIA

In re Application of	:	
SMALL	:	DECISION ON PETITION
Serial No.: 10/509,297	:	
PCT No.: PCT/AU02/00413	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 28 March 2002	:	
Priority Date: 28 March 2002	:	
Atty Docket No.: None	:	
For: THERMAL STORAGE DEVICE	:	

This decision is in response to applicant's "Petition to Permit Filing Under 37 CFR 1.47(b)" filed 20 May 2005 to accept the application without the signature of inventor Barry James Small.

BACKGROUND

On 28 March 2002, applicant filed international application PCT/AU02/00413. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 September 2004.

On 28 September 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment. An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 29 March 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e). Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 20 May 2005, applicant responded with the present petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(g); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant has satisfied items (3), (5) and (6).

Regarding item (1), applicant has not provided payment of the $200.00 petition fee.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal:

> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature...it is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is appraised of the application to which the oath or declaration is directed. *In re Gray* 115 USPQ 80 (Comm'r Pat. 1956).
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

It is clear from applicant's petition and supporting material that a set of the application papers and oath or declaration have not been presented or mailed to the inventor. Applicant seeks a waiver of this requirement. Applicant's present filing does not support such a waiver. Item 17 of the petition states that a recording of some of threats from Mr. Small to Mr. Paton is attached to the petition and item 18 explains that the police and solicitor have advised that all contact with Mr. Small should be terminated. However, the referenced documentation was not in the petition. In addition, regarding contact with Mr. Small, it is possible that counsel could mail a set of the application papers to Mr. Smith. Absent a mailing of the papers to Mr. Smith, and his subsequent silence or refusal, applicant would need to provide documentation from the police as to the incidents investigated by the police and their recommendation not to contact Mr. Small and whether this advise extended to mailings from the corporation and/or the company's agents.

Regarding item (4), the filed declaration has been executed by Garth Alan Paton on behalf of the corporation and on behalf of the non-signing inventor. However, while the petition spells out Mr. Paton's title and right to execute the declaration on behalf of the corporation, this information is missing from the declaration itself. As explained in the Manual of Patent Examining Procedure at § 409.03(b):

> Where an application is executed by one other than the inventor, the declaration required by 37 CFR

1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

(B) The 37 CFR 1.47(b) applicant must state his or her relationship to the inventor as required by 37 CFR 1.64.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

12 SEP 2005

#6

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Garth Paton
Unit 1, 66 Wolseley Road
Point Piper
Sydney, NSW 2027
AUSTRALIA

In re Application of	:	
SMALL	:	DECISION ON RENEWED
Serial No.: 10/509,297	:	
PCT No.: PCT/AU02/00413	:	PETITION UNDER
Int. Filing Date: 28 March 2002	:	
Priority Date: 28 March 2002	:	37 CFR 1.47(b)
Atty Docket No.: None	:	
For: THERMAL STORAGE DEVICE	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 06 September 2005 to accept the application without the signature of inventor Barry James Small.

BACKGROUND

On 14 July 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file a request for reconsideration.

On 06 September 2005, applicant responded with the present renewed petition.

DISCUSSION

As detailed in the decision mailed 14 July 2005, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(g); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (3), (5) and (6).

With the current filing and accompanying papers applicant has satisfied the remaining three items and positively addressed the issues raised in the previous decision. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application has an international filing date of 28 March 2002 under 35 U.S.C. 363, and will be given a date of **06 September 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

12 SEP 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

Mr. Barry Small
107 Warren Road
Smithfield
AUSTRALIA
2164

In re Application of
SMALL
Serial No.: 10/509,297
PCT No.: PCT/AU02/00413
Int. Filing Date: 28 March 2002
Priority Date: 28 March 2002
Atty Docket No.: None
For: THERMAL STORAGE DEVICE

Dear Mr. Small:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

Michael Doherty
Doherty Partner
Level 1
171 Bigge Street
Liverpool NSW 2170

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DEC 10 2009

OFFICE OF PETITIONS

FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

In re Application of :
Satoshi Aoki :
Application No. 10/509,303 : DECISION ON PETITION
Filed: June 22, 2005 :
Attorney Docket No. **7272-137/10410482** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 05, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 03, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 04, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of February 03, 2009 is accepted as having been unintentionally delayed

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1795 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/509,303	Confirmation No. 5421
Applicant:	Satoshi Aoki	
Filed:	June 22, 2005	
Art Unit:	4132	
Examiner:	Shannon M. Gardiner	
Atty. Dkt. No.:	7272-137/10410482	

==========

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR § 1.137

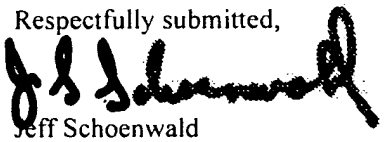
In response to the February 3, 2009 Final Office Action, in which a three month shortened statutory period expired on May 3, 2009, and in which the six month date for final reply was August 3, 2009, Applicant enters this petition to revive the application on grounds that the entire delay in filing the required reply from the due date for the reply until the filing of this petition pursuant to this paragraph was unintentional.

This petition is accompanied by a submission in response to the outstanding Office Action, as set forth in 37 CFR § 1.137(b)(1), and a Request for Continued Examination, as set forth in 37 CFR § 1.137(c).

The petition fee, as set forth in 37 CFR § 1.17(m), and the fee for the Request for Continued Examination, as set forth in 37 CFR § 1.17(e), are believed due and are authorized by credit card transaction. If the Commissioner determines that any additional fees are due or to be credited, please refer to Attorney docket No. 7272-137/10410482.

Dated: August 5, 2009

Respectfully submitted,



Jeff Schoenwald
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FULBRIGHT & JAWORSKI L.L.P
555 South Flower Street
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(213) 892-9200 – Telephone
(213) 892-9494 – Facsimile

cc: G. B. Wood
enclosures

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Shinya Adachi	: DECISION ON REQUEST FOR
Patent Number	: 7657372	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1332** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,335	10/08/2004	Yugo Matsunaga	259821US0PCT	2012

22850 7590 10/18/2007

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
STOCKTON, LAURA LYNNE	
ART UNIT	**PAPER NUMBER**
1626	

NOTIFICATION DATE	DELIVERY MODE
10/18/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES
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TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Frederick D. Vastine, Ph.D.
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

Date: October 11, 2007
Application No. 10/509,335
Filed: October 8, 2004
Subject: **Therapeutic agent for food competence Disorder in stomach**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed September 24, 2007 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that not all of the inventors contributed to the invention as claimed in claims 9-13. Accordingly, this application has been changed by the **deletion of RAITA HIGASHINO AND MASANAO KAWACHI.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Ryoichi Saitoh	: DECISION ON REQUEST FOR
Patent Number	: 7666610	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,343	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

08 APR 2008

BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

In re Application of	:	DECISION ON
BUNN-O-MATIC CORPORATION	:	
Application No.: 10/509,361	:	
PCT No.: PCT/US03/09125	:	
Int. Filing Date: 25 March 2003	:	PETITION UNDER
Priority Date: 25 March 2002	:	
Attorney's Docket No.: 27726/96969	:	
For: REVERSING AUGER SYSTEM	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 17 July 2007.

BACKGROUND

On 25 March 2003, this international application was filed, claiming an earliest priority date of 25 March 2002.

On 24 September 2004, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

On 07 April 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration in "compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date," must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 17 July 2006, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the notification of MISING REQUIREMENTS (Form PCT/DO/EO/905) mailed 04/07/2005 within the time period set therein.

On 17 July 2007, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an executed declaration and the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the executed declaration, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **17 July 2007.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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CROWELL & MORING LLP
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P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/02/2010

Applicant	: Takuya Sugawara	: DECISION ON REQUEST FOR
Patent Number	: 7622402	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/509,371	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **508** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Shoichi Endo	: DECISION ON REQUEST FOR
Patent Number	: 7628886	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **959** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
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SEP 26 2006

OFFICE OF PETITIONS

Olivia Tolan
British American Tobacco
R & D Centre
Patents Department
Regents Park Road, Mailbrook
Southhampton, SO15-8TL

In re Application of	:	
QVIST	:	
Application No. 10/509,401	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 77147	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

The request is **NOT APPROVED**.

A review of the request indicates that Olivia Tolan is no longer associated with Customer Number 26288. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

/dsb/ David Bucci
Petitions Examiner
Office of Petitions

cc: **Albihns Stockholm AB**
Box 5581, Linnegatan 2
SE-114 85 Stockholm; SWEDENn
Stockholm, Sweden

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SHELL OIL COMPANY
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HOUSTON, TX 77252-2463

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Eric Johannes Puik :

Application No. 10/509,418 : DECISION ON PETITION

Filed: September 24,2 004 :

Attorney Docket No. TS1099US

This is a decision on the petition under 37 CFR 1.137(b), filed, March 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 30, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A reply was filed on July 24, 2006, with a request for an extension of time within the third month. On August 4, 2006, a Notice of Non-Compliant Amendment was mailed allowing a one month period for reply. No further responses were received within the allowable period. The application became abandoned on September 5, 2006. A Notice of Abandonment was mailed on March 15, 2007.

The amendment filed March 14, 2007, is noted.

The application is being forwarded to Technology Center 1700, GAU 1724 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

24 MAR 2005

#3

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www.uspto.gov

Tim Tingkang Xia
Morris, Manning & Martin, LLP
1600 Financial Center
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326-1044

In re Application of :
SUGIURA et al. :
Application No.: 10/509,421 : DECISION ON PETITION
PCT No.: PCT/JP03/03889 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 27 March 2003 :
Priority Date: 27 March 2002 :
Attorney Docket No.: 14974-46922 :
For: OLEFINIC THERMOPLASTIC :
ELASTOMER AND MOLDINGS

The petition to revive under 37 CFR 1.137(b) filed 27 January 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Tsuyoshi Yuki	: DECISION ON REQUEST FOR
Patent Number	: 7579305	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,426	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **991** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

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OFFICE OF PETITIONS

Applicant: Merbach et al.
Appl. No.: 10/509,436
Filing Date: April 10, 2003
Title: METHOD AND ARRANGEMENT FOR TOUCHLESS DETECTION OF DATA OF UNEVEN SURFACES
Attorney Docket No.: 5040.1004
Pub. No.: US 2005/0117784 A1
Pub. Date: June 2, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 8, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as the title on the front page of the publication "METHOD AND ARRANGEMENT FOR TOUCHLESS DETECTION OF DATA OF UNEVEN SURFACES" is misprinted as "System for High Contrast Contactless Representation of Strips of the Skin" and the inventor Rudolf Huake is missing from the list of the inventors.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on August 8, 2005, was not timely filed under 37 CFR 1.221(b).

The errors noted by requestor wherein the title as originally filed is printed instead of the amended title and the inventor is missing from the list of inventors are Office errors but the

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

mistakes are not material errors under 37 CFR 1.221(b). The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of
KONDO, KENJI, et al.
Application No. 10/509,462
Filed: September 28, 2004
Attorney Docket No. 5077-000226/NP

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 12, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
Kondo et al.	:	
Patent Number: 7,519,199	:	ON PETITION
Issue Date: 04/14/2009	:	UNDER RULE 1.705
Application No. 10/509462	:	
Filing or 371(c) Date: 09/28/2004	:	
Attorney Docket Number: 5077-000226/NP	:	

This is in response to the PETITION UNDER RULE 1.705, filed May 18, 2009. Patentee requests that the patent term adjustment be increased 564 days from 1015 days to 1579 days on the basis that the patent did not issue within 36 months of the application filing date. This matter is being properly treated as a timely filed application for patent term adjustment pursuant to 37 CFR 1.705(d).

The request for reconsideration patent term adjustment is **DISMISSED**.

On April 14, 2009, the above-identified application matured into U.S. Patent No. 7,519,199 with a patent term adjustment of 1015 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment pursuant to the ruling in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, Patentees are entitled to an additional 564 days of patent term adjustment. Accordingly, Patentees assert that the correct patent term adjustment for this patent is 1579 days.

The 564-day period is calculated based on national stage having commenced under 35 U.S.C. 371(b) or (f) in an international application on September 28, 2004, and the patent having issued on April 14, 2009, three (3) years and 564 days later. Patentees assert that in addition to this 564-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 1015 days. This 1015-day period is the result of a period of delay of 1015 days for the failure by the Office to mail at least one of a notification not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on April 14, 2009, the application was pending three years and 564 days after national stage commenced. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1015 days is correct. At issue is whether patentees should accrue 564 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 1018 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 564 days of delay in issuing the patent overlap with the 1018 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to

> the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after national stage commences.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, September 28, 2004, to the date the patent issued on April 14, 2009. Prior to the issuance of the patent, 1015 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 564 days for Office delay in issuing the patent overlap with the 1015 days of Office examination delay. During that time, the issuance of the patent was delayed by 1015 days, not 564 days + 1015 days. The Office took 14 months and 1015 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1015 days of Office examination delay and the time allowed within the time frames for processing and examination, the application issued three years and 564 days after its filing date. The Office did not delay 564 days and also delay an additional 1015 days. Accordingly, 1015 days of patent term adjustment was properly entered because the period of delay of 564 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1015 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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OFFICE OF PETITIONS

In re Application of	:	
Thomas William Bailey, et al.	:	
Application No. 10/509,465	:	DECISION GRANTING PETITION
Filed: September 28, 1004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PG4774USW	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 29, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 22, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

13 SEP 2005

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Alexandria, VA 22313-1450
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Garth W. Whelen
50 Cramond Close Se
Calgary, AB T3M1C1
CANADA

In re Application of	:	
Whelen	:	
Serial No.: 10/509,489	:	DECISION ON
PCT No.: PCT/CA02/01817	:	PETITION
Int. Filing Date: 27 November 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 05 March 2002	:	
Attorney's Docket No.: NONE	:	
For: EAR FLAPS FOR HELMETS	:	

This decision is responsive to the petition filed 24 May 2005 to revive the instant application, which is being treated as a petition under 37 CFR 1.137(b). Applicant included the $750 petition fee.

BACKGROUND

On 27 November 2002 applicants filed international application PCT/CA02/01817, which claimed priority of earlier Canadian application was filed 05 March 2002. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 12 September 2003. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 05 September 2004.

On 29 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by a declaration, and a check for $460 for the basic national fee. These papers were assigned Application No. 10/509,489.

On 30 March 2005, a "NOTIFICATION OF ABANDONMENT" (form PCT/DO/EO/909) was mailed to applicant indicating tha the application was abandoned for failure to provide a copy of the international application by 30 months from the earliest claimed priority date.

On 24 May 2005, applicant filed the current petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Although applicants have provided a proper reply and the petition fee, applicant failed to provide a statement that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.

CONCLUSION

The petition to revive the application is **DISMISSED**.

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be entitled "Renewed Petition under 37 CFR 1.137(b)" and should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra Brittingham
PCT Legal Office
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 272-0459

31 OCT 2005

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Garth W. Whelen
50 Cramond Close Se
Calgary, AB T3M1C1
CANADA

In re Application of	:	
Whelen	:	
Serial No.: 10/509,489	:	DECISION ON
PCT No.: PCT/CA02/01817	:	RENEWED PETITION
Int. Filing Date: 27 November 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 05 March 2002	:	
Attorney's Docket No.: NONE	:	
For: EAR FLAPS FOR HELMETS	:	

This decision is responsive to the renewed petition under 37 CFR 1.137(b) filed 17 October 2005. The $750 petition fee was paid at the time of the earlier filed petition.

BACKGROUND

On 27 November 2002 applicants filed international application PCT/CA02/01817, which claimed priority of earlier Canadian application was filed 05 March 2002. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 12 September 2003. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 05 September 2004.

On 29 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by a declaration, and a check for $460 for the basic national fee. These papers were assigned Application No. 10/509,489.

On 30 March 2005, a "NOTIFICATION OF ABANDONMENT" (form PCT/DO/EO/909) was mailed to applicant indicating tha the application was abandoned for failure to provide a copy of the international application by 30 months from the earliest claimed priority date.

On 24 May 2005, applicant filed a petition to revive. That petition was dismissed for failure to include a statement that the entire delay was unintentional.

On 17 October 2005, applicant filed the current petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants provided a proper reply and the petition fee with the earlier filed petition. Applicants have now provided a statement that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of **29 September 2004.**

Debra Brittingham
PCT Legal Office
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/13/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10509491 Patent No.: 7407902 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/J.A. Lorengo/ AU 1793

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of :

Gerd Ascher et al :
Application No. 10/509,502 :
Filed: September 28, 2004 :
Attorney Docket No. 32413A :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 01095. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, File Transfer, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed April 12, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272- 3299.

for David Bucci
Petitions Examiner
Office of Petitions

Cc: D. Peter Hochberg Co., LPA
1940 East 6th Street, 6th Floor
Cleveland, OH 44114-2294

UNITED STATES PATENT AND TRADEMARK OFFICE

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Novartis
Corporate Intellectual Property
One Health Plaza 104/3
East Hanover, NJ 07936-1080

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Gerd Ascher et al. :
Application No. 10/509,502 : DECISION ON PETITION
Filed: September 28, 2004 : TO WITHDRAW
Attorney Docket No. IB/G-32413A : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 1, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John D. Thallemer on behalf of all attorneys of record who are associated with customer No. 001095. All attorneys/agents associated with the Customer Number 001095 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor Gerd Ascher at the address in the declaration of the application. A courtesy copy of this decision will be mailed to the address noted in the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A final rejection was mailed on December 13, 2006. Failure to timely respond will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Gerd Ascher
Daxerfeld 3
6250 Kundl
Austria

cc: D. Peter Hochberg Co., LPA
1940 East 6th Street, 6th Floor
Cleveland, OH 44114-2294

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/07/2010

Applicant	: Carolyn B. Duncan	: DECISION ON REQUEST FOR
Patent Number	: 7622621	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/509,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1164** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

19 FEB 2008

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KEATING & BENNETT, LLP
8180 GREENSBORO DRIVE
SUITE 850
MCLEAN, VA 22102

In re Application of :
TAKEDA, Kazuya et al. :
Application No.: 10/509,520 :
PCT No.: PCT/JP2004/003524 :
Int. Filing Date: 17 March 2004 :
Priority Date: 17 March 2003 : DECISION
Docket No.: 90606.23 :
For: METHOD FOR DETECTING TARGET SOUND, METHOD FOR DETECTING DELAY TIME IN SIGNAL INPUT, AND SOUND SIGNAL PROCESSOR :

This decision is in response to applicant's submission of a declaration of the inventors, filed in the United States Patent and Trademark Office on 08 June 2005.

BACKGROUND

On 20 April 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 08 June 2005, applicant supplied a declaration of the inventors containing foreign language text. However, the declaration is not a USPTO form.

DISCUSSION

The declaration provided by applicant is a foreign language declaration, but it is not a USPTO form. Applicant has not provided a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69.

CONCLUSION

A statement under 37 CFR 1.69 or a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and 1.69 is required within TWO (2) MONTHS of the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in the abandonment of this application.

Any further correspondence with respect to this matter may be filed electronically via EFS-WEB, or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Patent No. 7,531,651	:	DECISION ON REQUEST FOR
Cook et al.	:	RECONSIDERATION OF
Issue Date: May 12, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/509,521	:	NOTICE OF INTENT TO ISSUE
Filed: June 10, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No. PG4793USW	:	

This is a decision on the petition filed on July 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-six (936) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED** to the extent that the term of the above-identified patent is extended or adjusted by one thousand six (1,006) days[1].

The "B" delay period is 592 days, not 336 days as stated by patentee. The priority date of this application is March 28, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on September 28, 2004. Thus, "B" delay is 592 days, counting the number of days beginning on September 29, 2007, and ending on May 12, 2009, the date of issuance. See 37 CFR 1.703(b). Furthermore,

[1] 600 days of "A" Delay + 592 days of "B" delay - 186 days of overlap = 1,006 days of Patent Term Adjustment

the periods overlap by 186 days (September 29, 2007 - April 1, 2008).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand six (1006) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,651 B2

DATED : May 12, 2009 **DRAFT**

INVENTOR(S) : Cook et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 600 days

Delete the phrase "by 600 days" and insert – by 1006 days--

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Christopher John St Clair Webber	: DECISION ON REQUEST FOR
Patent Number	: 7664640	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,527	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1193** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

In re Application of :
Korhonen, et al. :
Application No. 10/509,528 : ON APPLICATION FOR
Filed: September 24, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0110 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed March 27, 2009. Applicants submits that the correct patent term adjustment to be indicated on the patent is five hundred eighty-two (582) days, not three hundred nineteen (319) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on November 28, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,593,748	:	DECISION ON REQUEST
Korhonen et al.	:	FOR
Issue Date: September 22, 2009	:	RECONSIDERATION OF
Application No. 10/509,528	:	PATENT TERM ADJUSTMENT
Filed: September 24, 2004	:	and
Atty Docket No.088245-0110	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 22, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred and thirty (630) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred and seventeen (417) days[1] is **GRANTED to the extent indicated herein.**

---

[1] The maximum "B" delay period is 427 days, not considering any excluded periods of appellate review. In calculating the "B" delay period, patentees used the date of September 24, 2004, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. The Office used incorrectly the date of September 26, 2004, in calculating the maximum "B" delay period. In an international application, the "B" delay period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f), not the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. See 1.702(b). The priority date of this application is March 26, 2002. The date that is 30 months from the priority date is Sunday, September 26, 2004. As the national stage cannot commence on a weekend or federal holiday, the date the national stage commenced in this application is Monday, September 27, 2004. Thus, "B" delay is 427 days, counting the number of days beginning on September 28, 2007, and ending on November 27 2008, the day before the date the Request for Continued Examination was filed. See 1.703(b).

It is noted that patentees failed to account for the filing of the notice of appeal on July 20, 2007. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 291 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, July 20, 2007, and ending on the Office action under 35 USC 132 was mailed May 6, 2008. Thus, the B delay is 136 days (427 - 291). Accordingly, the patent term adjustment is 417 days (474 days of A delay + 136 days of B delay - 86 days of overlap - 107 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred and seventeen **(417)** days.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,593,748 B2

DATED : Sep. 22, 2009

INVENTOR(S) : Korhonen et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (379) days

Delete the phrase "by 379 days" and insert – by 417 days--

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OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

In re Application of :
Masahiro Toda, et al. :
Application No. 10/509,529 : DECISION GRANTING PETITION
Filed: June 14, 2005 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 38102-76017 :

This is a decision on the petition, filed September 8, 2009, under the provisions of 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioners request that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

Mail Date: 04/21/2010

Applicant	: Nobuyuki Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7587592	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,545	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Fishauf, Holtz, Goodman & Chick PC
220 Fifth Avenue, 16th Floor
New York, New York 10001-7708

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OFFICE OF PETITIONS

In re :
Tokai et al. :
Application No. 10/509,549 : RECONSIDERATION OF
Patent No. 7,112,598 : PATENT TERM ADJUSTMENT
Filing Date: September 28, 2004 :
Attorney Docket No. 04661/HG

This decision is in response to applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 37 CFR 1.705(d) timely[1] filed on November 3, 2006 requesting that the Office adjust the PTA calculation at the time of the notice of allowance from a determination of ZERO (0) days to a determination of SEVENTY-SEVEN (77) DAYS.

Applicant's request for reconsideration of PTA is **GRANTED**. The correct amount of PTA at the time of the issuance of the patent is SEVENTY-SEVEN (77) days. The Office will *sua sponte* issue a certificate of correction reflecting this decision. In addition, the Office will correct the PTA determination displayed in PAIR to be consistent with this decision.

Applicant asserts that the Office erred in the 120 days of applicant delay assessed for the alleged amendment filed on May 19, 2006. Applicants assert that they did not file an amendment but in actually commented on the applicants notice of allowability (i.e. examiner's amendment). Applicants assert that the letter was to comment on the Office error in the examiner's amendment. Applicants do not contest the seventy-seven (77) days pursuant to 37 CFR 1.702(a)(1).

Applicant's arguments are persuasive. The Office has reviewed the Image File Wrapper (IFW) to determine what has been submitted by applicant after the mail date of the notice of allowance. Applicant merely submitted a letter advising the examiner that he had erred in amending the improper claim. The letter was not an

[1] Issued on September 26, 2006

amendment under 37 CFR 1.312. After the submission of the 5/19/06 letter, the Office entered an examiner's amendment reflecting the proper claim to be amended. Accordingly, the Office will withdraw the reduction of 120 days under 37 CFR 1.704(c)(10). The correct amount of PTA at the time of the issuance of the patents is 77 days (77 days of USPTO delay and 0 days of applicant delay).

After the mailing of this decision, the file will be forwarded to the certificate of correction branch for prompt issuance of the certificate of correction.

Applicants have provided the required $200.00 fee. No additional fees are required in the determination of this request.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft certificate of correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,112,598 B2

DATED : Sep. 26, 2006

INVENTOR(S) : Tokai et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0 days" and insert – by 77 days--

Day : Tuesday
Date: 1/30/2007

PALM INTRANET

Time: 14:28:17

PTA Calculations for Application: 10/509549			
Application Filing Date:	09/28/2004	PTO Delay (PTO):	77
Issue Date of Patent:	09/26/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	77
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
45	01/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
40	09/26/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
39	08/28/2006	EXPORT TO FINAL DATA CAPTURE			
38	08/23/2006	FINISHED INITIAL DATA CAPTURE			
37	08/23/2006	DISPATCH TO FDC			
36	08/23/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
35	08/23/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
34	08/07/2006	ISSUE FEE PAYMENT VERIFIED			
33	08/07/2006	ISSUE FEE PAYMENT RECEIVED			
32	05/19/2006	RESPONSE TO REASONS FOR ALLOWANCE			
31	06/07/2006	MAIL EXAMINER'S AMENDMENT			
30	06/05/2006	EXAMINER'S AMENDMENT COMMUNICATION			
29	05/19/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	
28	05/19/2006	EXPORT TO INITIAL DATA CAPTURE			
27	05/15/2006	MAIL NOTICE OF ALLOWANCE			
26	05/15/2006	MAIL EXAMINER'S AMENDMENT			
25	05/12/2006	ISSUE REVISION COMPLETED			
24	05/12/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	05/12/2006	EXAMINER'S AMENDMENT COMMUNICATION			
22	05/12/2006	NOTICE OF ALLOWABILITY			
21	05/10/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
20	05/09/2006	DATE FORWARDED TO EXAMINER			

19	05/02/2006	RESPONSE AFTER NON-FINAL ACTION			
18	02/13/2006	MAIL NON-FINAL REJECTION	77		-1
17	02/08/2006	NON-FINAL REJECTION			
16	12/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	09/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	09/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	06/28/2005	CORRECTED FILING RECEIPT			
12	12/17/2004	REFERENCE CAPTURE ON IDS			
11	12/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/28/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9	09/28/2004	PRELIMINARY AMENDMENT			
8	05/04/2005	CORRESPONDENCE ADDRESS CHANGE			
7	02/15/2005	CLEARED BY OIPE CSR			
6	02/15/2005	CLEARED BY OIPE CSR			
5	02/15/2005	CLEARED BY OIPE CSR			
4	09/28/2004	371 COMPLETION DATE			
3	02/08/2005	APPLICATION DISPATCHED FROM OIPE			
2	02/08/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	09/28/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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NORRIS, McLAUGHLIN & MARCUS
875 Third Avenue
18th Floor
New York, NY 10022

In re Application of :
BELANSKY et al :
U.S. Application No.: 10/509,555 :
PCT No.: PCT/GB03/01449 :
Int. Filing Date: 03 April 2003 :
Priority Date: 03 April 2002 : **DECISION**
Attorney Docket No.: 102792-008/11006P1 :
For: CLEANING APPARATUS AND :
METHOD FOR USING THE SAME :

This decision is in response to applicants' petition Under 37 CFR 1.47(a) filed on 28 April 2006.

BACKGROUND

On 29 September 2004, applicant submitted papers to enter the national stage of PCT/GB03/01449. These papers included an unsigned declaration.

On 30 March 2005, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements is 29 September 2004.

On 18 April 2005, a request for a corrected filing receipt was mailed.

On 03 August 2005, a request for a Notice of Missing Parts was filed.

On 28 April 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a declaration signed by twelve of the thirteen named inventors and documentary evidence of correspondence sent to the nonsigning inventor with postal receipts.

DISCUSSION

A review of the subject application shows that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was not submitted on 29 September 2004. The declaration filed with the national stage papers was not signed.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 30 March 2005 were sent in error, and hereby **VACATED**.

In the papers filed 28 April 2006, applicant claims that one of the thirteen named inventors, Lamson Nguyen, refuses to sign the declaration and has filed the subject petition under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

The $200.00 petition fee has been paid.

Regarding item (2), the 37 CFR 1.47(a) applicant included a list of the actions taken to obtain the signature of the nonsigning inventor in the petition. A letter requesting signature of the declaration was mailed to the last known address of Mr. Nguyen on 31 March 2006 along with a copy of the above-captioned patent application. A Federal Express tracking report indicates that the documents were delivered and received by M. Mai on 03 April 2006. Applicant was requested to return the executed documents as soon as possible. Another letter and copy of the subject application was mailed to the last known address of Mr. Nguyen on 07 April 2006 again requesting that the documents be returned as soon as possible. These documents were delivered on 10 April 2006 and received by G. Nguyen.

Applicants claim that no response has yet been received from the nonsigning inventor and concludes that Mr. Nguyen "had ample opportunity to review these aforesaid documents and notwithstanding these opportunities, continues to refuse to join in the above-captioned application."

Applicants' burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP which states, in part:

> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

A review of the evidence submitted shows that the conduct of Mr. Nguyen

constitutes a refusal to cooperate.

As such, item (2) of 37 CFR 1.47(a) is satisfied.

The last known address of Mr. Lamson Nguyen is listed as:

278 Maple Avenue
Somerset, NJ 08873

Regarding item (4), the 37 CFR 1.47(a) applicant submitted declaration signed by twelve of the thirteen joint inventors on behalf of the nonsigning joint inventor. The residence, citizenship and mailing information for all inventors are listed. This declaration complies with 37 CFR 1.497(a) and (b).

Item (4) of 37 CFR 1.47(a) is also satisfied.

All requirements of 37 CFR 1.47(a) are complete.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 April 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 28 April 2006.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

08 JUN 2005

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Laurence P. Colton
TECHNOPROP COLTON LLC
PO Box 567685
Atlanta GA 31156-7685 US

In re Application of	:	DECISION ON
FOCKE et al	:	
PCT No.: PCT/EP03/03754	:	
Application No.: 10/509,561	:	PAPERS FILED
Int. Filing Date: 11 April 2002	:	
Priority Date: 25 April 2002	:	
Attorney's Docket No.: 20605.016US	:	UNDER 37 CFR 1.42
For: CIGARETTE PACK COMPRISING A SLIDE AND CASE	:	

This is a decision on the declaration filed 27 September 2004, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 27 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration signed by Doris FOCKE and Jurgen FORKE as heirs to deceased inventor Heinz FOCKE.

DISCUSSION

The declaration is unacceptable because the declaration does not state that Doris FOCKE and Jurgen FORKE are all the heirs for the deceased inventor or the legal representatives for the deceased inventor, Heinz FOCKE. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that Doris FOCKE and Jurgen FORKE are all heirs for the deceased inventor or are the legal representatives for the deceased inventor, Heinz FOCKE, to accept the application under 37 CFR 1.42. A statement by Doris or Jurgen or their attorney which sets forth that they are in fact all the heirs of the deceased inventor if there are no other heirs.

In addition, the declaration did not satisfy 37 CFR §1.497(b)(2) because it did not state the citizenship, residence, and mailing address of the all the heirs and the deceased inventor.

Moreover, a submission of a declaration executed by all of the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and submit a declaration properly executed by the legal representative(s) of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

#5

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Laurence P. Colton
TECHNOPROP COLTON LLC
PO Box 56785
Atlanta GA 31156-7685 US

In re Application of	:	DECISION ON RENEWED
FOCKE et al	:	
PCT No.: PCT/EP03/03754	:	
Application No.: 10/509,561	:	PAPERS FILED
Int. Filing Date: 11 April 2002	:	
Priority Date: 25 April 2002	:	
Attorney's Docket No.: 20605.016US	:	UNDER 37 CFR 1.42
For: CIGARETTE PACK COMPRISING A SLIDE AND CASE	:	

This is a decision on the "Renewed Submission Under 37 CFR 1.42," filed on October 28, 2005.

BACKGROUND

In a decision from this office dated 08 January 2005, the papers filed on 27 September 2004 were not accepted under 37 CFR 1.42. The reason was that it was not clear if Doris FOCKE and Jurgen FORKE are the sole heirs of the deceased inventor, Heinz FOCKE.

On 28 October 2005, applicants submitted the renewed submission under 37 C.F.R. §1.42.

DISCUSSION

Applicants have provided an executed declaration, which sets forth that Doris FOCKE and Jurgen FOCKE are in fact the sole heirs and legal representatives of the deceased inventor Heinz FOCKE.

Accordingly, the requirements under 37 CFR 1.42 are satisfied and the declaration is acceptable at this time.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **28 October 2005**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

#6

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LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE, TN 37901

In re Application of BINGHAM et al :
U.S. Application No.: 10/509,568 :
PCT Application No.: PCT/GB03/01535 :
Int. Filing Date: 07 April 2003 : DECISION
Priority Date Claimed: 05 April 2002 :
Attorney Docket No.: 59621.US :
For: A METHOD OF MANUFACTURE OF AN :
AUTOMOBILE STRUCTURE . . . :

This is in response to applicant's "Petition Under Rule 1.47(a)" filed 26 October 2005.

BACKGROUND

On 07 April 2003, applicant filed international application PCT/GB03/01535, which claimed priority of an earlier United Kingdom application filed 05 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 05 October 2004.

On 29 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 29 April 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 26 October 2005, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be

reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor John Bingham refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Bingham for signature (see affidavit of Anthony William Pluckrose, ¶4). Furthermore, petitioner has sufficiently established that Bingham refuses to sign. In particular, Bingham made an express oral refusal to sign during a telephone conversation with Clive Alexander Card (see Mr. Card's affidavit, ¶3). Thus, it can be concluded with reasonable certainty that Bingham refuses to join in the application.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any fee deficiency will be charged to Deposit Account No. 12-2355 as authorized by applicant.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 07 April 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 October 2005.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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30 DEC 2005

John Bingham
5 Turner Close
Wymondham, Norfolk,
NR18 ONP
United Kingdom

In re Application of BINGHAM et al
U.S. Application No.: 10/509,568
PCT Application No.: PCT/GB03/01535
Int. Filing Date: 07 April 2003
Priority Date Claimed: 05 April 2002
For: A METHOD OF MANUFACTURE OF AN AUTOMOBILE STRUCTURE . . .

Dear John Bingham:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE, TN 37901

Attorney Docket No.: 59621.US

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MERCK
P O BOX 2000
RAHWAY, NJ 07065-0907

Mail Date: 08/04/2010

Applicant	: Laurie A. Castonguay	: DECISION ON REQUEST FOR
Patent Number	: 7667053	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/509,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 25, 2007

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No. 10/509602 patent no. 7207283

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ SPE

3617 Art Unit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,605	09/27/2004	Tony Verbeuren	SERVIER 435 PCT	2292

25666 7590 08/19/2008

THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO, MI 49007

EXAMINER	
JAVANMARD, SAHAR	

ART UNIT	PAPER NUMBER
1617	

MAIL DATE	DELIVERY MODE
08/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Michele M. Cudahy
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO, MI 49007

AUG 1 9 2008

In re Application of :
VERBEUREN et al :
Serial No.: 10/509,605 :
Filed : 27 September 2004 :
Attorney Docket No.:Servier 435 PCT :

Decision on Petition

This letter is in response to the Renewed Petition under 37 C.F.R. 1.144 and 1.181 filed on 14 July 2008 requesting reconsideration of the restriction requirement dated 26 February 2008.

BACKGROUND

This application was filed as a national stage under 35 USC 371 and as such, is entitled to PCT unity of invention rules.

On 26 February 2008, the examiner required a restriction between Groups I and II.

On 28 March 2008 applicants elected Group I, claims 9-15 with traverse.

On 14 May 2008, the examiner considered the traversal and made the lack of unity determination FINAL. Claims 9-15 were rejected under 35 USC 103(a) as being unpatentable over Lavielle in view of Helgason.

On 14 July 2008, applicants filed a response to the Office action and this petition.

DISCUSSION

The file history and petition have been considered carefully.

PCT Rules 13.2 states that:

> **Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.**

The criteria for determining the concept of "contribution over the prior art" is further discussed in Chapter 10 of the International Search and Preliminary Examination Guidelines:

> *Rule 13.2; AI Annex B, Part 1(b)*
>
> 10.02 Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.

The restriction required between Group I, a product, and Group II, a method of using the product for the treatment of an atherothrombotic illness is at issue at this time. The petition states that because the prior art cited in the lack of unity determination, US Patent no 5,472,979, does not teach the combination of Formula I with aspirin, that unity exists between the product and process inventions.

This is not persuasive in view of the first Office action on the merits. PCT Rule 13.2 requires that for unity of invention, the inventions must share a special technical feature which makes as contribution over the prior art. Chapter 10 of the ISPE Guidelines makes it clear that the contribution must be both in terms of novelty, which corresponds to anticipation under US practice, and inventive step, which corresponds to unobviousness under US practice. The rejection made under 35 USC 103(a) are evidence that the product invention is obvious in view of the prior art.

Upon allowance of all claims directed to the elected product invention, applicant may be entitled to rejoinder of any process claims.

> The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.
> In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35
> U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable,

an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

The petition filed under 37 CFR 1.144 and 1.181 on 14 July 2008 is **DENIED**.

The application will be forwarded to the examiner to consider the papers filed 14 July 2007 and to prepare an Office action consistent with this petition decision.

Any request for reconsideration should be filed within TWO MONTHS of the mail date of this Petition Decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH, VA 22040-0747

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Takaaki Miyoshi et al	:	
Application No. 10/509,612	:	DECISION GRANTING PETITION
Filed: September 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0152-0695PUS1	:	

This is a decision on the petition, filed September 14, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Sept10\509612.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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ANDREWS KURTH LLP
1350 I STREET, N.W.
SUITE 1100
WASHINGTON DC 20005

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Yokoyama et al :
Application No. 10/509,660 : DECISION ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. :
26170/168577

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 10, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were timely obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 14, 2006 (November 10, 2006, the due date, was a Federal holiday).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment/response, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of August 10, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $120 extension of time fee submitted with the petition on February 27, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 1617 for appropriate action in the normal course of business on the reply received February 27, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

13 OCT 2005

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ELELIXIS INC.
Patent Department
170 Harbor Way
P.O. Box 511
San Francisco, CA 94083-0511

In re Application of :
LAMMARS, Allan *et al* :
Application No.: 10/509,669 :
PCT No.: PCT/US03/09485 :
Int. Filing Date: 27 March 2003 : **DECISION**
Priority Date: 27 March 2002 :
Attorney Docket No.: AG03-004C-US :
For: GENERATION OF PLANTS WITH :
IMPROVED PATHOGEN RESISTANCE :

This decision is in response to the declaration submitted on 22 August 2005.

The declaration submitted is defective. The declaration is comprised of a first page, one "Page 2 of 2", three "Page 3 of 3" and one "Page 4 of 4." Each page 3 of 3 lists the same inventors, but executed separately. This indicates that at least three copies of the declaration were executed and were pieced together after their execution to create a composite declaration. While it is acceptable for inventors to execute separate copies of the declaration, applicants must submit the entire declaration as it was executed by each inventor. The instant declaration does not comply.

Moreover, the declaration lists the name of the fourth inventor as Tina M. HARWELL. However, the international publication records the inventor as Tina M. HARWEEL. Counsel has not provided an explanation regarding the name change and there is no record of a name change pursuant to PCT Rule 92*bis* in the record.

If the inventor has not legally changed her name, a new declaration signed using the name listed on the international publication for each inventor is needed, or counsel must provide an adequate explanation regarding the change in spelling such as a transliteration error. *See* § 201.03 MPEP.

Applicants must provide a new declaration within **ONE (1) MONTH** from the mail date of this communication, or any time remaining in the Form PCT/DO/EO/905, whichever is longer. Failure to submit the required reply in the time allotted will result in the **ABANDONMENT** of this application.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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United States Patent and Trademark Office
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29 DEC 2005

ELELIXIS INC.
Patent Department
170 Harbor Way
P.O. Box 511
San Francisco, CA 94083-0511

In re Application of
LAMMARS, Allan *et al*
Application No.: 10/509,669
PCT No.: PCT/US03/09485
Int. Filing Date: 27 March 2003
Priority Date: 27 March 2002
Attorney Docket No.: AG03-004C-US
For: GENERATION OF PLANTS WITH IMPROVED PATHOGEN RESISTANCE

DECISION

This decision is in response to applicants' "Response to Communication" filed on 17 November 2005.

BACKGROUND

On 20 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was required.

On 22 August 2005, applicants filed a response which included an executed declaration (6 pages) and the $130.00 surcharge fee.

On 13 October 2005, a decision indicating that the declaration filed 22 August 2005 was not in compliance with 37 CFR 1.497(a) and (b) was mailed. The declaration submitted was only a composite declaration. It was also noted that the declaration listed the name of the fourth inventor differently than the name is recorded on the international publication. Applicants were given one month to respond, or any time remaining in the Form PCT/DO/EO/905, whichever is longer.

On 17 November 2005, the subject response was filed which was accompanied by, *inter alia*, a declaration signed by five of the seven inventors.

DISCUSSION

In response to the decision mailed 13 October 2005, applicants' declare that "[t]he legal name of the fourth inventor is Tina M. Harwell. The listing of Tina M.

Harweel is a typographical error by the USPTO." Applicants included a copy of the Demand filed 07 October 2003 listing the inventor's last name as "Harwell."

Section 201.03 of the MPEP discusses these types of errors and states, in part:

> Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration"

DECISION

Applicants' explanation meets the requirements of the MPEP and is sufficient to explain the name difference between the declaration and the international publication.

However, the declaration submitted was not executed by all of the named inventors. As such, the declaration is not in compliance with 37 CFR 1.497(a) and (b).

Applicants were required to submit a declaration in compliance of 37 CFR 1.497(a) and (b) within one month from the mail date of the 13 October 2005 decision, or within the time remaining in the Form PCT/DO/EO/905, whichever is longer. Both of these time periods have expired.

Accordingly, the above-captioned application is hereby **ABANDONED**.

If reconsideration on the merits of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants may also wish to consider to revive the above-captioned application pursuant to 37 CFR 1.137(a) or (b).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

08 JUN 2006

#8

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United States Patent and Trademark Office
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ELELIXIS INC.
Patent Department
170 Harbor Way
P.O. Box 511
San Francisco, CA 94083-0511

In re Application of :
LAMMARS, Allan *et al* :
Application No.: 10/509,669 :
PCT No.: PCT/US03/09485 :
Int. Filing Date: 27 March 2003 : **DECISION**
Priority Date: 27 March 2002 :
Attorney Docket No.: AG03-004C-US :
For: GENERATION OF PLANTS WITH :
IMPROVED PATHOGEN RESISTANCE :

This decision is in response to the "Response to Decision" filed on 02 March 2006 which is treated as a petition to revive under 37 CFR 1.137(b) and hereby **GRANTED** as follows:

In their response, applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) executed by all joint inventors. The $1,500.00 petition fee has been charged to Deposit Account No. 02-4550 as authorized. The statement in the response is sufficient to meet the requirements of 37 CFR 1.137(b)(3). No terminal disclaimer is required. All elements of 37 CFR 1.137(b) are complete.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 27 March 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 March 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

14 APR 2006

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4372
ARENT FOX PLLC
1050 Connecticut Ave., N.W., Suite 400
Washington, DC 20036

In re Application of :
DEL SOLDATO, Pierro :
U.S. Application No.: 10/509,675 :
PCT No.: PCT/EP03/03183 : **DECISION**
Int. Filing Date: 27 March 2003 :
Priority Date: 11 April 2002 :
Attorney's Docket No.: 026220-00055 :
For: DRUGS FOR THE ARTHRITIS TREATMENT :

The decision is in response to applicant's "Petition Under 37 C.F.R. §1.47(b)" ("Pet.") submitted on 07 September 2005.

BACKGROUND

On 09 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee are required. Petitioner was given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 07 September 2003, the 37 CFR 1.47(b) applicant submitted the instant petition which was accompanied by, *inter alia*, a $130.00 petition fee; a $65.00 surcharge fee; a four-month extension and $795.00 extension fee; a "Statement Under 37 C.F.R. §3.73(b)"; a copy of an assignment; a copy of an employment agreement; a letter signed by Patrizia Antognazza; an "Affidavit" by Maria Teresa Noro; copies of several letters and postal receipts; and a "Statement Regarding Irreparable Damage to Invention."

DISCUSSION

Petitioner claims that Dr. Piero Del Soldato, the sole inventor, refuses to cooperate due to an employment dispute. Accordingly, the present petition was submitted pursuant to the requirements of 37 CFR 1.47(b).

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor cannot be reached after diligent effort or

refuses to cooperate, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to $200.00 on 08 December 2004. This fee has been charged to Deposit Account No. 01-2300 as authorized.

Concerning item (2), the 37 CFR 1.47(a) applicant submitted an affidavit by Maria Teresa Noro, an attorney practicing in Milan, Italy, who claims that she sent a copy of an application HF 2596 entitled "DRUGS FOR THE ARTHRITIS TREATMENT" to the sole inventor on 14 February 2005 with a copy hand-delivered to his lawyer asking that he respond within fifteen days. Apparently, Mr. Del Soldato never collected the mail delivery as it was returned to sender. Ms. Noro states that she sent another copy of the documents to Mr. Del Soldato and his lawyer on 29 March 2005 requesting a return of the documents in ten days. Ms. Noro declares that "Mr. Del Soldato never sent back to me those documents." Copies of the letters with English translations and postal receipts were included with the subject petition.

Section 409.03(d) of the MPEP discusses a refusal and states, in part:

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition.

After a careful review of this evidence, it is deemed that the conduct of the sole inventor constitutes a refusal to cooperate as explained in the MPEP and is sufficient to meet the requirements of item (2) of 37 CFR 1.47(b).

With regards to item (3), the last known address of the sole inventor is listed as:

Via Enrico Toti 22
20052 Monza
Italy

Concerning item (6), section 409.03(g) of the MPEP states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." Such a statement was provided.

Items (1), (2), (3) and (6) of 37 CFR 1.47(b) are satisfied.

Regarding item (4), section 409.03(b) of the MPEP requires that a declaration signed by the 37 CFR 1.47(b) applicant must be provided. Here, the 37 CFR 1.47(b) applicant has not provided such a declaration. Consequently, item (4) of 37 CFR 1.47(b) is not satisfied.

Finally, section 409.03(f) of the MPEP discusses the proof required to show the requisite proprietary interest required by item (5) of 37 CFR 1.47(b) and states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. . . .

Here, the 37 CFR 1.47(b) applicant provided a copy of an assignment filed in the USPTO, an employment agreement signed by the sole inventor on 02 December 1995 and a letter signed by Patrizia Antognazza. A review of the assignment shows that it is based upon the employment agreement, as such, the analysis of (B) will follow.

The employment contract for Mr. Del Soldato shows that employee duties with regards to inventions are discussed in sections 3.1 and 3.2. The employee contract indicates that any intellectual and/or industrial property rights, in particular patent rights, of any kind or nature, which may be created or developed by him . . . shall be the sole property of the Nicox Group."

Petitioners also submitted a letter by Patrizia Antognazza who declares that "the above-identified invention was made by Dr. Piero Del Soldato in fact I and Dr. Sama wrote a draft of the application based on a draft and on pharmacological results sent to me by Dr. Piero Del Soldato which reviewed and corrected the draft application."

Section 409.03(f) of the MPEP expands upon the employment agreement

requirement and states:

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. **When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.** (Emphasis added).

The letter by Patrizia Antognazza is deficient in meeting the statement requirement above in that it appears that the author works for outside counsel (with Dr, Daniele Sama) and does not have the requisite firsthand knowledge that the invention was made by Dr. Del Soldato during the period of employment and within the scope of duties contemplated by the employment agreement. Further clarification is needed as a minimum. It is noted that a statement by a person working at Nicox S.A. such as Dr. Del Soldato's supervisor at the time the invention was conceived would be more appropriate. For this reason, item (5) is also not satisfied.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson

Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#9

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20 JUL 2006

4372
ARENT FOX PLLC
1050 Connecticut Ave., N.W., Suite 400
Washington, DC 20036

In re Application of :
DEL SOLDATO, Pierro :
U.S. Application No.: 10/509,675 :
PCT No.: PCT/EP03/03183 : **DECISION**
Int. Filing Date: 27 March 2003 :
Priority Date: 11 April 2002 :
Attorney's Docket No.: 026220-00055 :
For: DRUGS FOR THE ARTHRITIS TREATMENT :

The decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(b)" filed on 24 May 2006.

BACKGROUND

On 14 April 2006, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Petitioner failed to meet items (4) and (5) of 37 CFR 1.47(b).

On 24 May 2006, petitioner filed a renewed petition which was accompanied by a declaration signed by Giovanna Barchielli for the nonsigning inventor and a "Declaration of Mr. Michele Garufi."

DISCUSSION

In the petition filed 07 September 2005, the 37 CFR 1.47(b) applicant failed to satisfy items (4) and (5) of 37 CFR 1.47(b).

Concerning item (5) of 37 CFR 1.47(b). The decision dated 14 April 2006 noted that a letter a person having firsthand knowledge that the invention was made by Dr. Del Soldato during the period of employment and within the scope of duties contemplated by the employment agreement was all that was needed to meet this requirement.

In the renewed petition, the 37 CFR 1.47(b) applicant submitted a declaration by Mr. Michele Garufi, the CEO of Nicox S.A., who verifies that the above-identified invention was made by Dr. Del Soldato as the sole inventor and the subject matter was within the scope of his duties. This is sufficient to meet the deficiencies noted.

The 37 CFR 1.47(b) applicant has now provided enough evidence to meet the requirements of section 409.03(f) of the MPEP to show that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the above-captioned application.

Item (5) of 37 CFR 1.47(b) is now satisfied.

Concerning item (4), petitioner submitted a declaration signed by Giovanni Barchielli for the nonsigning inventor, Piero Del Soldato. The name, residence, citizenship and post office address of the nonsigning inventor was listed on the declaration as required. However, this information was stricken on the declaration and replaced by information for Giovanna Barchielli. There was no position or title for Mr. Barchielli recorded on the declaration. There was also no specific authorization allowing Mr. Barchielli to sign for the 37 CFR 1.47(b) applicant in any of the papers submitted.

This declaration does not meet the requirements of 37 CFR 1.497, 37 CFR 1.63 or sections 324 and 409.03(b)(A) and of the MPEP.

The information for the nonsigning inventor must not be stricken on the declaration. This information is required by 37 CFR 1.497(a) and 37 CFR 1.63. The required information for the person signing on behalf of the nonsigning inventor pursuant to 37 CFR 1.47 should be listed below the information for the nonsigning inventor. 37 CFR 1.497(b)(2) also requires that the relationship of the person to the inventor be recorded if signed pursuant to 37 CFR 1.47. Moreover, section 409.03(b) notes that the title or position of the person signing must be recorded on the declaration if signing on behalf of a corporation under 37 CFR 1.47(b). If the declaration is being signed on behalf of an assignee, the requirements of section 324 of the MPEP apply. None of this information was contained in the declaration.

For this reason, item (4) of 37 CFR 1.47(b) is still not satisfied.

CONCLUSION

For the reason listed above, the renewed petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for

Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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21 SEP 2006

4372
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1050 Connecticut Ave., N.W., Suite 400
Washington, DC 20036

In re Application of
DEL SOLDATO, Pierro
U.S. Application No.: 10/509,675
PCT No.: PCT/EP03/03183
Int. Filing Date: 27 March 2003
Priority Date: 11 April 2002
Attorney's Docket No.: 026220-00055
For: DRUGS FOR THE ARTHRITIS TREATMENT

DECISION

This is a decision on the papers filed 13 September 2006.

BACKGROUND

On 20 July 2006, a decision dismissing applicant's petition under 37 CR 1.47(b) was mailed. Applicant was given two months to respond.

On 13 September 2006, applicant submitted an executed declaration.

DISCUSSION

In response to the decision mailed 20 July 2006, petitioner included a declaration signed by the sole inventor. This declaration complies with 37 CFR 1.497(a) and (b).

No further action on the petition under 37 CFR 1.47(b) is required.

CONCLUSION

Accordingly, the petition under 37 CFR 1.47(b) is **DISMISSED** as **MOOT**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 27 March 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 13 September 2006.

This application is being forwarded to the National Stage Processing Division of

the Office of PCT Operations for continued processing.

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#10

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Edward Yoo c/o Bennett Jones
1000 ATCO Centre
10035 - 105 Street
Edmonton, AB T5J3T2
CANADA

In re Application of	:	
Harvey et al.	:	
Application No.: 10/509,706	:	DECISION
PCT No.: PCT/CA03/00717	:	
Int. Filing Date: 16 May 2003	:	ON
Priority Date: 16 May 2002	:	
Attorney Docket No.: 47220.7	:	PETITION
For: Wind Turbine With Hydrostatic Transmission	:	

This is in response to the "Response To Decision On Petition - 37 CFR 1.47(a)" filed on 17 April 2006.

DISCUSSION

In a decision mailed on 17 February 2006, the petition under 37 CFR 1.47(a) filed on 02 December 2005 was dismissed without prejudice because

> In the "Affidavit Under 37 CFR 1.47," Alexander S. Harvey states that "A copy of the application papers including a declaration and the patent specification were forwarded to both inventors and have been subsequently signed by Alexander S. Harvey," and that "Application papers were sent to the home address of Mr. David McConnell" on June 2, 2005. It is unclear whether these statements, appearing in paragraphs 7 and 8 of the "Affidavit...," refer to the same correspondence, or whether correspondence was sent to Mr. McConnell on two separate occasions. Moreover, although Mr. Harvey states that the 02 June 2005 correspondence was "sent by courier to Mr. David McConnell," no evidence is presented on the point of whether the courier actually delivered the correspondence. Also, it appears that the correspondence in question may have been sent by Mr. Yoo, rather than Mr. Harvey; if this is the case, applicants are reminded that all statements should be made on the basis of first-hand knowledge rather than hearsay. In any renewed petition, counsel should present any available evidence pertaining to the issue of whether the courier actually delivered the parcel in question.

The instant submission includes a declaration document executed by both of the inventors and otherwise in compliance with the requirements of 37 CFR 1.497(a) and (b). As such, the petition under 37 CFR 1.47(a) is moot.

DECISION

The declaration filed on 17 April 2006 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **17 April 2006**.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
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17 FEB 2006

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CANADA

In re Application of
Harvey et al.
Application No.: 10/509,706
PCT No.: PCT/CA03/00717
Int. Filing Date: 16 May 2003
Priority Date: 16 May 2002
Attorney Docket No.: 47220.7
For: Wind Turbine With Hydrostatic Transmission

DECISION

ON

PETITION

This is in response to the petition under 37 CFR 1.47(a) filed on 02 December 2005.

BACKGROUND

This international application was filed on 16 May 2003, claimed an earlier priority date of 16 May 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 27 November 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 November 2004. Applicants filed *inter alia* the basic national fee on 30 September 2004.

On 03 May 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding requirement (1), the $200.00 petition fee is being charged to counsel's Deposit Account No. 02-2057, as authorized by the Transmittal Letter filed on 30 September 2004.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor David McConnell be excused because he allegedly "refuses to sign the application despite being presented with the application papers for his execution." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands

exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

In the "Affidavit Under 37 CFR 1.47," Alexander S. Harvey states that "A copy of the application papers including a declaration and the patent specification were forwarded to both inventors and have been subsequently signed by Alexander S. Harvey," and that "Application papers were sent to the home address of Mr. David McConnell" on June 2, 2005. It is unclear whether these statements, appearing in paragraphs 7 and 8 of the "Affidavit...," refer to the same correspondence, or whether correspondence was sent to Mr. McConnell on two separate occasions. Moreover, although Mr. Harvey states that the 02 June 2005 correspondence was "sent by courier to Mr. David McConnell," no evidence is presented on the point of whether the courier actually delivered the correspondence. Also, it appears that the correspondence in question may have been sent by Mr. Yoo, rather than Mr. Harvey; if this is the case, applicants are reminded that all statements should be made on the basis of first-hand knowledge rather than hearsay. In any renewed petition, counsel should present any available evidence pertaining to the issue of whether the courier actually delivered the parcel in question.

Regarding requirement (3), the petition includes a statement the last known address of Mr. McConnell (appearing in paragraph 11 of the "Affidavit Under 37 CFR 1.47" signed by Alexander S. Harvey). Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventor Alexander S. Harvey on behalf of himself and non-signing joint inventor David McConnell. This declaration satisfies requirement (4).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,732	09/30/2004	Clarc J. Watkins	BJS-620-334	9948

23117 7590 10/17/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
LEESER, ERICH A	

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
10/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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B.J. Sadoff
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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203-1808

OCT 17 2008

In re Application of :
Watkins et al :Decision on Petition
Serial No.: 10/509,732 :
Filed : 30 September 2004 :
Attorney Docket No.: 620-334 :

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 1 January 2008 requesting for withdrawal of the restriction requirement mailed 17 April 2007. The delay in acting on this petition is regretted.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 and as such, is eligible for unity of invention practice.

On 17 April 2007, the examiner restricted claims 80-173 into 5 groups, depending upon the variable for the Cy residue.

On 17 May 2007, applicants elected with traverse, Group V, which is drawn to Cy variable which is defined as none of the Cy variables designated for Groups I-IV.

On 19 September 2007, in a non-final Office action, the examiner considered the traversal and made the restriction requirement FINAL. Claims 80-173 were rejected under 35 U.S.C. 112, 1st paragraph for lack of enablement. Claims 80, 118 and 142 were rejected under 35 USC 112, 2nd paragraph. Claims 80-71, 85, 98, 102, 116-117, 138-141, 145-146, 163-164 and 168 were rejected under 35 U.S.C. 102(b) as being anticipated by Bedell.

On 1 January 2008, applicants filed this petition.

On 18 January 2008, applicants filed an amendment to the claims and a response to the Office action.

On 5 May 2008, a final Office action was mailed in which the examiner maintained the enablement rejection. The rejection under 35 USC 102(b) as being anticipated by Bedell was withdrawn in view of the amendment to remove $C_{5\text{-}20arylene}$ from the definition of Q^2.

On 25 June 2008, applicant filed a response to the final Office action, including an amendment to add cancel claims 169-173.

On 3 September 2008, the examiner mailed a non-final Office action in which claims 80-84, 87-116 and 119-173 were rejected under 35 USC 112, 2nd paragraph. Claims 80, 81, 84, 98, 101, 116, 119-129, 135, 141-142, 145-146, 155-166 and 168 were rejected under 35 USC 103(a) as being unpatentable over Owen et al.

DISCUSSION

Applicants' petition and the file history have been considered carefully. The petition argues that the unity of invention determination was incorrect because Groups I-V share a special technical feature which makes a contribution over the prior art.

The PCT International search and preliminary examination guidelines, paragraph 10.03 provides that Lack of unity of invention may be directly evident "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. Paragraph 10.03 goes on to state:

> For example, independent claims to A + X, A + Y, X + Y can be said to lack unity *a priori* as there is no subject matter common to all claims. In the case of independent claims to A + X and A + Y, unity of invention is present *a priori* as A is common to both claims. However, if it can be established that A is known, there is lack of unity *a posteriori*, since A (be it a single feature or a group of features) is not a technical feature that defines a contribution over the prior art.

Paragraph 10.03 also provides that whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and *inventive step*. (emphasis added). "Inventive step" is a PCT phrase comparable to the obviousness standard used in US patent practice.

Applicants argue the claims are patentable over Bedell. This argument is convincing, in view of the withdrawal of the rejection under 35 USC 102(b) in the Office action dated 25 June 2008.

However, any technical feature shared among Groups I-V does not make a contribution over the prior art, as evidenced by the rejection of claims under 35 USC 103(a) as being unpatentable over Owen et al.

Furthermore, 37 CFR 1.475(b) provides guidance concerning various categories of invention permitted for national stage filings under 35 USC 371.

> 1.475 Unity of invention before the International Searching Authority, the International Preliminary Examining Authority and during the national stage

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

(2) A product and process of use of said product; or

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

In this case, the products and methods recited in Groups I-V, respectively, do not appear to be within any of the combinations of categories listed above, thus a lack of unity of invention is permitted.

DECISION

For these reasons, the petition filed on 1 January 2008 is **DENIED.**

Applicants remain under obligation to timely response to the Office action mailed 3 September 2008.

Any request for reconsideration should be filed with two (2) months of the mail date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Remy Yucel
Director, Technology Center 1600

25 FEB 2005

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Burns Doane Swecker & Mathis LLP
PO Box 1404
Alexandria, VA 22313-1404

In re Application of :
CATROUX, Phillippe et al. :
Application No.: 10/509,760 : DECISION
PCT No.: PCT/FR02/03693 :
Int. Filing Date: 28 October 2002 : ON PETITION UNDER
Priority Date: 30 October 2001 :
Docket No.: 016800-699 : 37 CFR 1.137(b)
For: COSMETIC COMPOSITION THAT MIMICS : SEBUM AND THE USE THEREOF :

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 30 September 2004 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), the surcharge for late filing of the oath or declaration and the processing fee for submission of the English translation later than thirty months are required.

Erin M. Pender

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MAILED

JUN 19 2009

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Patent No. 7,423,050 :
Cohen et al. :
Issue Date: September 9, 2008 :
Application No. 10/509,770 : DECISION ON REQUEST FOR
Filed: September 28, 2004 : RECONSIDERATION OF
Attorney Docket No. 34251-502 : PATENT TERM ADJUSTMENT
NATL. :
Title: Pyridinoylpiperidines As :
5-HTIF Agonists :
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed November 10, 2008. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for reconsideration of patent term adjustment is **GRANTED-in-Part** and **Dismissed-in-Part** to the extent indicated herein.

The above-identified application matured into U.S. Patent No. 7,423,050 on September 9, 2008. The patent issued with a patent term adjustment of 465 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment determination for the above-identified patent be changed from 465 days to 656 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees also state that reductions should have been taken for the supplemental information disclosure statement

(IDS) submitted on May 9, 2008 and a reduction for the submission of a petition filed under 37 CFR 1.48 on August 6, 2008 after the mailing of a Notice of Allowance. Patentees have included the reductions in their calculations.

The petition sets forth a period of adjustment for Office delays totaling 917 days (Three Year Delay under 37 CFR 1.703(b) of 346 days *plus* a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 571 days). Patentee also states that in addition to the 106 days of applicant delay, the Office should have taken an additional reduction of 155(120+35) days for applicants' delay pursuant to 37 CFR 1.704. Thus, patentees assert entitlement to an overall adjustment of 656 days (571 + 191 days for Office delays *less* 106+155 days for applicants' delays).

Patentees also acknowledge the reduction for applicants' failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704 for 62 days. Patentees state that a reduction for the submission of a supplemental information disclosure statement (IDS) submitted May 9, 2008 required a 79-day reduction because it was submitted after the response to the non-final Office action on February 20, 2008. Thus patentees state an additional 35-day reduction is required as 44 days were taken for the IDS submitted on April 4, 2008. Patentee is correct, pursuant to 37 CFR 1.704(c)(8) a 79 day reduction is required.

Patentees also state a reduction for the submission of a petition under 37 CFR 1.48 after payment of the issue fee is required. Patentees' own calculation of the period of reduction in connection with the submission under 37 CFR 1.312, filed August 6, 2008, incorrectly sets forth a reduction of 120 days. The correct reduction in this regard is 35 days. See, 37 CFR 1.704(c)(10)(ii). Thus the total reduction for applicant delay is 176 days (62+79+35). The petition is **GRANTED** to the extent indicated that Patentees acknowledge that additional reductions based on 1.704 (c)(8) and (c)(10) were required.

The Office finds the following: under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704.

The Office agrees that because certain actions were not taken within specified time frames, the patent is entitled to an adjustment of 571 days pursuant to 37 CFR 1.702(a). It should be noted that the calculation of any over three year delay for an application filed pursuant to 35 USC 371 is calculated based upon the commencement date. In this instance the commencement date of the application was September 29, 2004. Thus, the application was pending three years and 346 days until the issuance of the patent on September 9, 2008.

At issue is whether patentees should accrue an additional 346 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 571 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 346 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See, Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing or commencement date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing or commencement date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application commenced, September 29, 2004, to the date the patent issued on September 9, 2008. Prior to the issuance of the patent, 571 days of patent term adjustment were accorded for

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

the Office failing to respond within specified time frames during the pendency of the application. The 571 days accorded pursuant to 37 CFR 1.702(a) overlap with the 346 days of Office delay under 37 CFR 1.702(b).

The Office did not delay 571 days and then delay an additional 346 days. Accordingly, 571 days of patent term adjustment (not 571 days and 346 days) was properly entered because the period of delay of 346 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 571 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted. Thus, 571 days, which includes the 346 days pursuant to 37 CFR 1.702(a), is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered an overall adjustment of 571 days of patent term adjustment for the Office taking in excess of three years to issue the patent. Patentees' request for extension or adjustment based on over three-year delay is **Dismissed**.

In view thereof, the patent term adjustment indicated in the patent should have been three hundred ninety-five **(395)** days (571 - 62-79-35).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred ninety-five **(395)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant, at (571) 272-3215.

Kery A. Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,423,050 B2

DATED : September 9, 2008

INVENTOR(S) : Michael Philip Cohen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (465) days

Delete the phrase "by 465 days" and insert – by 395 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,423,050 B2

DATED : September 9, 2008

INVENTOR(S) : Michael Philip Cohen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (465) days

Delete the phrase "by 465 days" and insert – by 395 days--

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BOSTON MA 02111

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,423,050 :
Cohen et al. :
Issue Date: September 9, 2008 :
Application No. 10/509,770 :
Filed: September 28, 2004 :
Attorney Docket No. 34251-502 NATL :
Title: PYRIDINOYLPIPERIDINES AS 5-HT1F AGONISTS :

: DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 20, 2009, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by an additional three hundred forty six (346) days. The petition was filed within two months of a decision by the Office mailed on June 19, 2009 granting in part applicants' request for reconsideration of PTA under 37 CFR 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred forty-one (741) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred forty-one (741) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,423,050 B2

DATED : **September 9, 2008** **DRAFT**

INVENTOR(S) : Cohen et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 395 days

Delete the phrase "by 395 days" and insert – by 741 days--

12 JUL 2005

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#8

Richard B. O'Planick
Dept. 823
THE GOODYEAR TIRE AND RUBBER COMPANY
1144 East Market Street
Akron, OH 44316-0001

In re Application of
MIYABE, Saburo *et al*
Application No.: 10/509,775
PCT No.: PCT/JP03/03551
Int. Filing Date: 24 March 2003
Priority Date: 28 March 2002
Attorney Docket No.: DN2003055
For: PNEUMATIC TIRE

DECISION

This decision is in response to the documents filed via facsimile on 29 June 2005 which are treated as a petition under 37 CFR 1.181. No fee is required. Applicants' petition is **GRANTED** as follows:

On 23 June 2005, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed on 23 May 2005 was not in compliance with 37 CFR 1.497(a) & (b) as the declaration did not contain a complete listing of all inventors. In their response, applicants argue that the declaration does contain a complete listing of all inventors as the declaration is numbered and each page indicates that there are additional inventors. This explanation is accepted.

The Notification of a Defective Response (Form PCT/DO/EO/916) mailed 23 June 2005 is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 March 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 23 May 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#7

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09 DEC 2005

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SALIWANCHIK LLOYD & SALIWANCHIK
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GAINESVILLE FL 32614-2950

In re Application of	:	DECISION ON
Robin et al	:	
PCT No.: PCT/GB03/01488	:	
Application No: 10/509,781	:	PETITION UNDER
Int. Filing Date: 04 April 2003	:	
Priority Date: 05 April 2002	:	
Attorney's Docket No.: GJE-7020	:	
For: HOLOGRAPHIC SENSOR BASED ON A VOLUME HOLOGRAM IN A POROUS MEDIUM	:	37 CFR 1.47(a)

This is in response to the "PETITION TO FILE APPLICATION WITHOUT SIGNATURE OF JOINT INVENTOR" filed on 14 November 2005, which is being treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 04 April 2003, petitioner filed international application PCT/GB03/01488, which claimed priority to an earlier application filed 05 April 2002. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 05 October 2004.

On 29 September 2004, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed oath or declaration accompanied the above papers.

On 10 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date. The notice indicated that all of the items set forth must be submitted within two (2) months from the date of this Notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

On 14 November 2005, petitioner filed the present petition, a declaration in support of filing on behalf of omitted inventor Satyamoorthy Kabilan accompanied, inter alia, an executed Declaration without the signatures of Satyamoorthy Kabilan.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1) and (4) under 37 CFR 1.47(a) but not items (2) and (3).

Regarding item (1), petitioner has provided the fee under 37 CFR 1.17(g) because the remaining portion of $70.00 of the petition of $200.00 has been charged to the Deposit Account No. 19-0065 as stipulated in the petition.

Regarding item (2), Mr. Saliwanchik's states that applicants have been unsuccessful in obtaining the signature of Kabilan as evidenced by his e-mail communication that he is unwilling to sign a declaration. However, these statements are not sufficient to support a finding that the nonsigning inventor, Kaliban refuses to sign because it is unclear if a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, and that after reviewing the application papers the inventor refused to sign.

In addition, petitioner did not file a statement from Ms. Dobree, who is the person involved in the electronic communications listed above and has first hand knowledge of those facts as required by MPEP Section 409.03(d). Since Mr. Saliwanchik did not participate and does not have first knowledge of the electronic communications with Kabilan, he will need to submit a statement from Ms. Dobree with specific facts on the actions referred to by the emails.

Regarding requirement (3), petitioner has not provided a statement of the last known address of the missing inventor, Satyamoorthy Kaliban.

Regarding requirement (4), petitioner has provided an executed declaration signed by all the inventors on behalf of the nonsigning joint inventor Satyamoorthy Kaliban.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
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#9

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In re Application of	:	DECISION ON
Robin et al	:	
PCT No.: PCT/GB03/01488	:	
Application No: 10/509,781	:	PETITION UNDER
Int. Filing Date: 04 April 2003	:	
Priority Date: 05 April 2002	:	
Attorney's Docket No.: GJE-7020	:	
For: HOLOGRAPHIC SENSOR BASED ON A VOLUME HOLOGRAM IN A POROUS MEDIUM	:	37 CFR 1.47(a)

This decision is in response to applicants' " RESPONSE TO DISMISSED PETITION" which is being treated as a renewed petition under 37 CFR 1.47(a) filed on 03 January 2006 in response to a decision by this Office dated 09 December 2005.

BACKGROUND

The decision by this Office dated 09 December 2005 indicated that requirements (2)-(3) had not been satisfied.

On 03 January 2006, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by the non-signing inventor Satyamoorthy Kabilan.

DISCUSSION

The second renewed petition states subsequent to the date of the Decision, Satyamoorthy Kabilan, executed a declaration. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 03 January 2006 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **03 January 2005.**

/Rafael Bacares/

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#5

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31 JAN 2006

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Saliwanchik, Lloyd & Saliwanchik
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Gainesville, Florida 32614-2950

In re Application of	
LOWE et al.	
U.S. Application No.: 10/509,782	DECISION ON PETITION
PCT No.: PCT/GB03/01499	UNDER 37 CFR 1.47(a)
Int. Filing Date: 04 April 2003	
Priority Date: 05 April 2002	
Attorney Docket No.: GJE-6941	
For: METHOD OF DEFECTING AN ANALYTE IN A FLUID	

This decision is in response to applicants' "Petition to File Application Without Signature of Joint Inventor" filed 25 July 2005, which is being treated as a petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Anthony Peter James.

BACKGROUND

On 04 April 2003, applicants filed international application PCT/GB03/01499 which claimed a priority date of 05 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 October 2004.

On 29 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an unexecuted declaration.

On 22 March 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 July 2005, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application

or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and (4) have been satisfied.

Regarding item (2) above, petitioner states that Anthony Peter James has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Anthony Peter James. Petitioner has provided a copy of the communication between Anthony Peter James and Robert Perry, however, the communication fails to identify whether a complete application was attached to the electronic mail communication. Additionally, petitioner has not presented evidence that a complete copy of the application (specification, claims, and drawings) has been mailed to the nonsigning inventor last known address. Lastly, the statement regarding the mailing of the electronic mail communication constitutes secondhand knowledge, in that, the mailing to which the petitioner is averring to was conducted by Robert Perry.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Anthony Peter James, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (3) above, petitioner has not provided a clear statement of the last known address of the non-signing inventor. See M.P.E.P. 409.03(e).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Anthony Peter James under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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#7

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13 FEB 2006

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In re Application of	:	
LOWE et al.	:	
U.S. Application No.: 10/509,782	:	DECISION ON PETITION
PCT No.: PCT/GB03/01499	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 04 April 2003	:	
Priority Date: 05 April 2002	:	
Attorney Docket No.: GJE-6941	:	
For: METHOD OF DEFECTING AN ANALYTE IN A FLUID	:	

This decision is in response to applicants' facsimile communication dated 07 February 2006, which is being treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Anthony Peter James.

BACKGROUND

On 04 April 2003, applicants filed international application PCT/GB03/01499 which claimed a priority date of 05 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 October 2004.

On 29 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an unexecuted declaration.

On 22 March 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 July 2005, applicants filed the present petition under 37 CFR 1.47(a). In a decision dated 31 January 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 07 February 2006, applicants filed the present renewed petition.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that an executed declaration was received by the USPTO on 21 October 2005. A review of the application file reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "Return Postcard" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; applicant's name; and docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 21 October 2005 which itemizes all the papers filed on said date. The postcard receipt bearing the applicant's name, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 21 October 2005.

B. Renewed Petition under 37 CFR 1.47(a)

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 21 October 2005 was executed by the named inventor, the previous non-signing inventor, Anthony Peter James. For the reasons above, the petition under 37 CFR 1.47 is dismissed as moot.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** and applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as moot.

The application has an international filing date of 04 April 2003 under 35 U.S.C. 363 and a date of **21 October 2005** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Satoru Toguchi	: DECISION ON REQUEST FOR
Patent Number	: 7598669	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,800	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

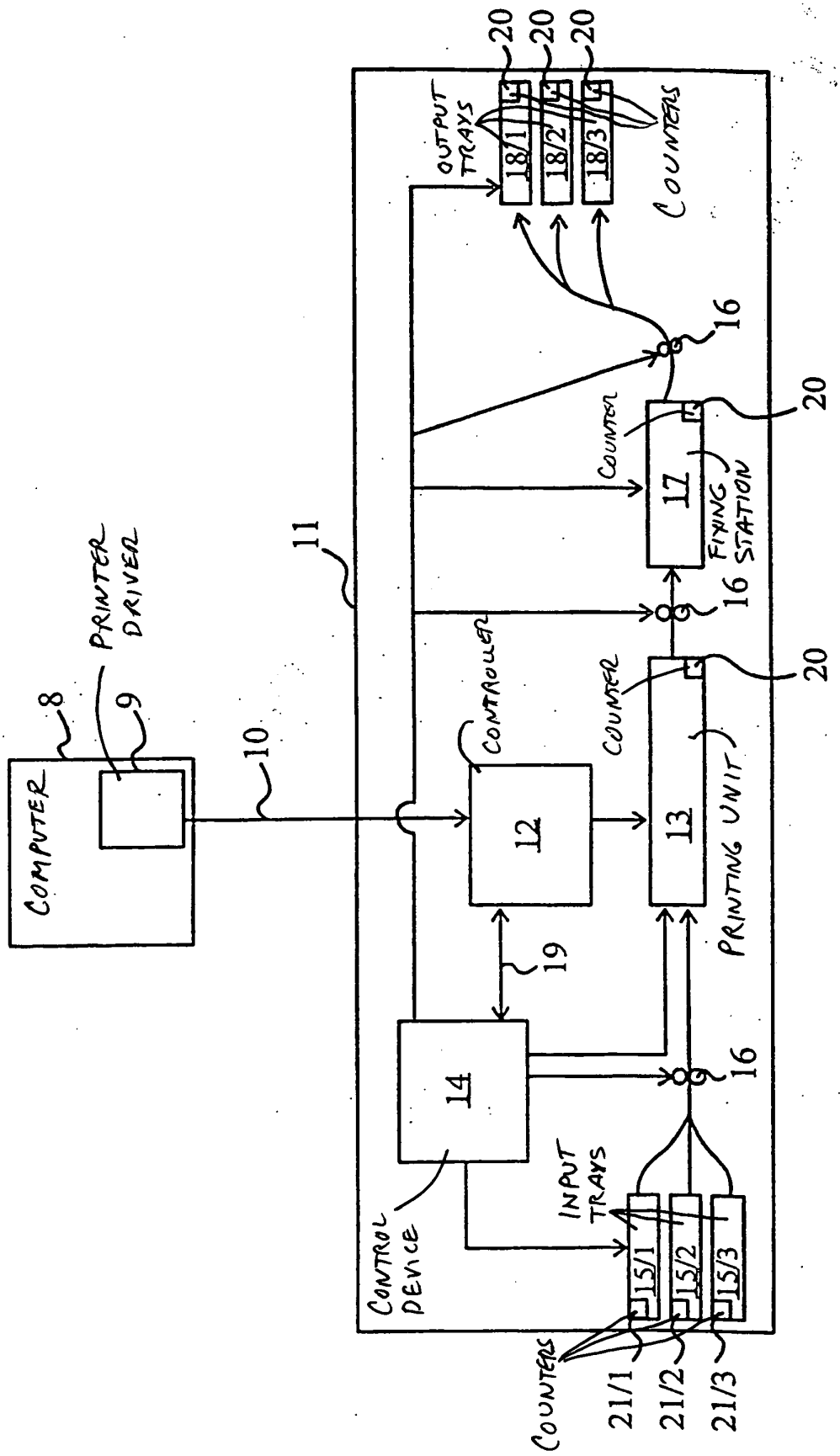
The patent term adjustment has been determined to be **703** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.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FIXING STATION
COUNTER
OUTPUT TRAYS
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Fig. 3

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OFFICE OF PETITIONS

In re Application of :
Michio KANEKO et al. :
Application No. 10/509,814 : DECISION ON PETITION
Filed: September 30, 20004 :
Attorney Docket No. A36275PCT USA :
074224.0138

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 21, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 20, 2007, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,640.00 extension of time fee submitted with the petition on March 24, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1796 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

12

PTO/SB/22 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) **FY 2006** *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) 074224.0138
Application Number 10/509,814	Filed 09/30/2004
For Discoloration Removal Cleaning Agent for Titanium and Titanium Alloy Building Materials, and Discoloration Removal Cleaning Method	
Art Unit 1709	Examiner Asdjodi, Mohammad Reza

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☐	Two months (37 CFR 1.17(a)(2))	$460	$230	$
☑	Three months (37 CFR 1.17(a)(3))	$1050	$525	$ 1,050.00
☐	Four months (37 CFR 1.17(a)(4))	$1640	$820	$
☐	Five months (37 CFR 1.17(a)(5))	$2230	$1115	$

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 02-4377. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 37,952

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature — 03/24/2008 Date

Manu J. Tejwani — Typed or printed name

212-408-2500 — Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment date: 05/12/2008 CKHLOK
03/25/2008 INTEFSW 00001826 024377 10509814
02 FC:1253 1050.00 CR

Document code: WFEE

United States Patent and Trademark Office
Sales Receipt for Accounting Date: 04/24/2008

YMIDDLET SALE #00000001 Mailroom Dt: 03/24/2008 024377 10509814
01 FC : 1254 590.00 DA

Adjustment date: 05/12/2008 CKHLOK
04/24/2008 YMIDDLET 00000001 024377 10509814
01 FC:1254 590.00 CR

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5-10-08

2 Serial/Patent # 10/509814

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
/	Extension of Time	5	3-24-08	$ 1640.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ ~~1640.00~~ 0.00

8 TO BE REFUNDED BY:

	Treasury Check
/	Credit Deposit A/C #:

9 02--4377

10 REASON:

	Overpayment
	Duplicate Payment
/	No Fee Due (Explanation):

maximum extendable time has expired

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Michelle L. Eason TITLE: Paralegal ~~Petitions Examiner~~

SIGNATURE: Michelle L. Eason PHONE: 571-272-4231

OFFICE: Office of Petitions

****

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APPROVED: CKhuu DATE: 5/12/08

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Fredrikson & Byron, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402-1425

In re Application of	:	
Osse et al.	:	
Application No.: 10/509,826	:	
PCT No.: PCT/US03/05107	:	
Int. Filing Date: 20 February 2003	:	DECISION
Priority Date: 20 February 2002	:	
Attorney Docket No.: 43279.52.3	:	
For: Venous Bi-Valve	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 30 September 2004.

BACKGROUND

This international application was filed on 20 February 2003, claimed an earlier priority date of 20 February 2002, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 20 August 2004. This international application has become abandoned with respect to the national stage in the U.S. for failure to timely file the full required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee was filed on 30 September 2004.

Regarding requirement (2), the petition fee was filed on 30 September 2004.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the

international filing date of this application is later than 8 June 1995.

Inspection of the declaration of the inventors filed on 30 September 2004 reveals that it has not been signed.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b).

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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OFFICE OF PETITIONS

In re Application of :
De Meuter, et al. :
Application No. 10/509,835 : ON PETITION
Filed: September 30, 2004 :
Attorney Docket No. 7393/84118

This is a decision on the petition under 37 CFR 1.137(b) filed May 25, 2010, and in supplement on May 27, 2010. The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 and, in the alternative, a petition under 37 CFR 1.137(b) to revive the application.

The petition to withdraw the holding of abandonment is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED.**

The application became abandoned on April 4, 2010, after no response was received to the Notice to File Corrected Application Papers mailed March 3, 2010, which set a period for reply of one -month from its mailing date. The Notice required corrected drawings to be filed. No response was received within the allowable period, and the application became abandoned on April 4, 2010. A Notice of Abandonment was mailed on May 19, 2010.

TREATEMENT UNDER 37 CFR 1.181

In the instant petition, petitioner maintains that corrected drawings were not necessary as the drawings filed in 2004 were acceptable for publication.

Petitioner's argument is not persuasive. Applicant is not a liberty to ignore a requirement made in the Notice to File Corrected Application Papers regardless of whether applicant believes that the drawings correction is unnecessary.. The Notice to File Corrected Application Papers made a requirement for corrected drawings and set a one month period for reply. Applicant was obligated to file a timely response to the Notice to File Corrected Application Papers or file a request to restart or reset the time period for responding to the Notice to File Corrected Application Papers because it was allegedly defective. See MPEP 710.06. Section 711.02 of the Manual of Patent Examining Procedure, citing 37 CFR 1.135(a) states, in pertinent part, that, "...an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))." In this case, applicant failed to respond to the Notice to File Corrected Application Papers, and the application was properly held abandoned on April 4, 2010.

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is granted.

It is noted that petitioner filed a copy of the Figure 1 that is at issue and that the copy as maintained in the Image File Wrapper is degraded. However, it is noted that there is a SCORE Placeholder Sheet for IFW Content in the Image File Wrapper indicating that "Drawings—Other than Black and White Line Drawings" are being stored in the SCORE database. The petition is being granted on the assumption that a legible and usable copy of Figure 1 is maintained in the SCORE database.

The application file is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

14 MAR 2006

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60 East South Temple
1000 Eagle Gate Tower
Salt Lake City, UT 84111

In re Application of :
JUST, Perry :
U.S. Application No.: 10/509,845 :
PCT No.: PCT/NZ03/00054 :
Int. Filing Date: 31 March 2003 : **DECISION**
Priority Date: 31 March 2002 :
Attorney's Docket No.: 14684.70 :
For: METHOD AND APPARATUS FOR PRODUCING PLANT CONTAINER LINERS PARTICULARLY FROM SPHAGNUM MOSS :

This is a decision on the request to delete an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) filed 12 October 2005.

BACKGROUND

On 16 May 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 12 October 2005, applicants filed the subject petition which was accompanied by, *inter alia*, the petition fee; a copy of an assignment; a declaration; a document titled "Statutory Declaration Under 37 CFR § 1.497(d)(1)"; a document titled "Consent of Assignee Pursuant to 37 CFR §1.497(d)(3)"; and a three-month extension and fee.

DISCUSSION

Applicant requests to remove Luke Valor as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being removed as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(l); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicant filed a statement by Luke Valor who requests to be removed as an inventor in the above-captioned application. Mr. Valor states that the "error in inventorship . . . occurred without deceptive intention on my part." The processing fee of $130.00 has been paid. Applicant also submitted a document titled "Consent of Assignee Pursuant to 37 CFR 1.497(d)" approving the change of inventorship in the above-identified application. This document was signed by the Fervent Stedfast as Trustee of the Christian Community Trust. Mr. Stedfast declares that he is "authorized to sign on behalf of the Christian Church Community Trust." This statement along with the copy of the assignment satisfies section 324 of the MPEP.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicant's request under 37 CFR 1.497(d) is **GRANTED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 31 March 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 12 October 2005.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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OFFICE OF PETITIONS

In re Application of :
Gerard Barbezat et al :
Application No. 10/509,850 : ON PETITION
Filed: September 30, 2004 :
Attorney Docket No. 015258-063900US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed April 13, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on May 14, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1792 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Barry Loines	: DECISION ON REQUEST FOR
Patent Number	: 7578245	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE CA 95131

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OFFICE OF PETITIONS

In re Application of :
Guido Plangger et al. :
Application No. 10/509,863 : ON PETITION
Filed: June 10, 2005 :
Attorney Docket No.: **CH020005US** :

This is a decision on the petition filed January 23, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 12, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 13, 2007. Accordingly, a Notice of Abandonment was mailed November 28, 2007.

This matter is being referred to Technology Center 2829 for appropriate action on the amendment filed January 23, 2008.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

6 JAN 2005

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#3

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Ogilvy Renault
1981 McGill College Avenue
Suite 1600
Montreal Quebec H3A 2Y3
CANADA

In re Application of	:	
BEAUDRY et al.	:	
Application No.: 10/509,869	:	DECISION ON
PCT No.: PCT/CA02/01066	:	
Int. Filing Date: 16 July 2002	:	PETITION UNDER
Priority Date: 16 July 2001	:	
Attorney Docket No.: 9-15186-21US	:	37 CFR 1.137(b)
For: MULTI-WAVELENGTH IMAGING OF HIGHLY TURBID MEDIA	:	

This decision is in response to applicants' submission filed 01 October 2004.

BACKGROUND

On 16 July 2002, applicants filed international application PCT/CA02/01066 which designated the U.S. and claimed a priority date of 16 July 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 January 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 January 2004.

On 01 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the basic national fee, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration later than thirty months from the priority date, and a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" .

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 01 October 2004.

As to item (2), applicant submitted the petition fee on 01 October 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 01 October 2004 is not in compliance with 37 CFR 1.497(a)-(b) since it is not signed by all of the applicants.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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JUN 08 2007

TECHNOLOGY CENTER 3600

Daren C. Davis
Law Offices of James E. Walton, P.L.L.C.
1169 N. Burleson Blvd. Suite 107-328
Burleson, Texas 76028

In re Application of: Daniel J. Sweigard
Application No. 10/509,928
Filed: October 1, 2004
For: Clip for Fire Detector Wire

PETITION IN REGARD TO AMENDMENT ENTRY UNDER 37 C.F.R. 1.181

This is in response to applicant's Petition Under 37 CFR 1.181 From Examiner's Refusal to Enter an Amendment Under 37 CFR 1.111 filed on February 16, 2007.

The petition is **Denied**.

An Office action was mailed October 4, 2005 including a rejection of claims 1-4. In response thereto applicant filed an amendment on January 6, 2006 that included arguments as to why the rejection of claims 1-4 was in error and the addition of new claims 5-20. The examiner mailed a notice of non responsive amendment on March 24, 2006 indicating that applicant did not point out how the new claims read over the rejection of record as required under 37 CFR 1.111.

The petition states that on April 19, 2006 applicant spoke with the examiner and the examiner indicated that she would consider applicant's arguments presented in the January 6, 2006 amendment to be sufficient, that the notice of non responsive amendment would be withdrawn and a new Office action prepared. The petition further states that the examiner indicated that no response was needed by applicant and no interview summary was needed.

The record shows that the examiner did not mail out any new action, applicant did not file any response and a notice of abandonment was mailed out April 6, 2007.

The petition requests that the amendment filed January 6, 2006 be entered as a proper amendment.

The petition includes copies of a telephone record showing a call was made to the examiner's phone number and a copy of an email from applicant's attorney to applicant

in regard to the phone conversation that applicant allegedly had with the examiner. When queried the examiner could not directly recall having or not having the interview. Unfortunately, without an interview summary in the file record there is no established record of any agreement or consent the examiner might have made. 37 CFR 1.2 states in part "The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is a disagreement our doubt."

Accordingly the petition is Denied. The application is currently in abandoned status. It is suggested applicant file a petition to revive an abandoned application if applicant wishes to continue prosecution of this application.

Summary: ***Petition is DENIED.***

Wynn Coggins
Patent Technology Center 3600
(571) 272-5350

CF 05/16/07

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OCT 02 2007

OFFICE OF PETITIONS

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

In re Application of :
Daniel J. Swegard :
Application No. 10/509,928 : ON PETITION
Filed: October 1, 2004 :
Attorney Docket No 0837RF-H543-US :

This is a decision in response to the petition, filed June 4, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to an Office action mailed March 24, 2006. A Notice of Abandonment was mailed on April 6, 2007. In response, on June 4, 2007, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

This application is being referred to Technology Center AU 3632 for appropriate action by the Examiner in the normal course of business on the reply received June 4, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Young-Gi Kim	: DECISION ON REQUEST FOR
Patent Number	: 7575813	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/509,953	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

30 SEP 2

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John Goodman
9472 Central Ave.
Garden Grove, CA 92844-1505

In re Application of GOODMAN	:	
U.S. Application No.: 10/509,968	:	
PCT Application No.: PCT/US03/09695	:	
Int. Filing Date: 28 March 2003	:	DECISION
Priority Date Claimed: 01 April 2002	:	
Attorney Docket No.: (none)	:	
For: AN ARTICLE OF CLOTHING WITH A NOVEL ATTACHMENT MEANS	:	

This is in response to applicant's correspondence filed 02 September 2005, which is being treated as petitions under 37 CFR 1.183 and 37 CFR 1.137(b).

BACKGROUND

On 28 March 2003, applicant filed international application PCT/US03/09695, which claimed priority of an earlier United States application filed 01 April 2002. The thirty-month period for paying the basic national fee in the United States expired on 01 October 2004.

On 01 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a credit card payment form which authorized the Office to charge $365.00 for the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/US03/09695 became abandoned as to the United States for failure to timely pay the full basic national fee.

On 02 September 2005, applicant filed the present petitions under 37 CFR 1.183 and 37 CFR 1.137(b).

DISCUSSION

I. Petition under 37 CFR 1.183

The petition seeks a waiver of the $750.00 petition fee for revival of the present application under 37 CFR 1.137(b). Effective 22 November 2004, a petition under 37 CFR 1.183 must be accompanied by the requisite $400.00 petition fee. See *Federal Register*, Vol. 169, No. 182, pp. 56536-56537 (21 September 2004). A review of the application reveals that the petition fee has not been submitted.

In addition, the following observations are made. Pursuant to PCT Article 39, 35 U.S.C. 371(c), and 37 CFR 1.495(b), the full basic national fee is due 30 months from applicant's earliest priority date. In the present case, the basic national fee was due on 01 October 2004. Effective 01 October 2004, the basic national fee for the present application was $375.00. See 37 CFR 1.492(a)(1). Since applicant's credit card authorization was limited to $365.00, the basic national fee submission was deficient by $10.00, and the application therefore became abandoned. Pursuant to 37 CFR 1.23(b), the Office will not accept a general authorization to charge fees to a credit card, and thus the Office was not permitted to charge the extra $10.00 to applicant's credit card.

The petition further states that applicant relied upon the incorrect advice of the PCT Help Desk to his detriment. Applicant is advised that pursuant to 37 CFR 1.2, no attention is paid to any alleged oral promise, stipulation, or understanding made during conversations with Office personnel. The Office regrets any misleading information that may have been spoken to applicant. It is noted that the 01 October 2004 basic national fee revisions were correctly published in the *Federal Register* (Vol. 69, No. 166, p. 52606, 27 August 2004) and the *Official Gazette* (31 August 2004). As set forth in MPEP 1893.01(c), "Because the national stage fees are subject to change, applicants and examiners should always consult the *Official Gazette* for the current fee listing." Applicant's failure to provide the proper basic national fee, when such fee was on public record, is not deemed an extraordinary situation which would require suspension of the rules.

II. Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1) above, effective 01 February 2005 and retroactive to 08 December 2004, the basic national fee for a small entity was $150.00, the search fee under 37 CFR 1.492(b)(2) was $200.00, and the examination fee under 37 CFR 1.492(c)(1) was $50.00. See *Federal Register* (Vol. 70, No. 20, p. 5053-5055, 01 February 2005). Because applicant had

submitted fees in excess of $150.00 by 08 December 2004, the required reply for the purposes of the petition under 37 CFR 1.137(b) has been submitted.

With regard to item (2) above, although the petition states that two of Form PTO-2038 are included with the petition, such forms do not appear in the application file. If applicant has a return postcard receipt which lists the credit card payment forms in its itemized contents, applicant should submit a copy of both the return postcard receipt and the credit card payment forms. If applicant does not have a return postcard receipt, then payment for the petition fee in a form described in 37 CFR 1.23 must be submitted.[1]

With regard to item (3) above, the requisite statement has not been provided. Applicant is strongly encouraged to use Form PTO/SB/64pct which can be downloaded from the USPTO web site at the following address: http://www.uspto.gov/web/forms/sb64pct.pdf .

With regard to item (4) above, because the application was filed after 08 June 1995, a terminal disclaimer is not required.

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.183 is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petitions is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. If applicant chooses not to request reconsideration regarding the petition under 37 CFR 1.183, the $400.00 petition fee need not be submitted.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

[1] To summarize, total fees in the amount of $1,150.00 (i.e. $150.00 for the basic national fee, $200.00 for the search fee, $50.00 for the examination fee, and $750.00 for the 37 CFR 1.137(b) petition fee) were due. Applicant has previously submitted $365.00 in fees. Therefore, a total of $785.00 is outstanding.

04 OCT 2005

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In re Application of GOODMAN	:	
U.S. Application No.: 10/509,968	:	
PCT Application No.: PCT/US03/09695	:	
Int. Filing Date: 28 March 2003	:	DECISION
Priority Date Claimed: 01 April 2002	:	
Attorney Docket No.: (none)	:	
For: AN ARTICLE OF CLOTHING WITH A NOVEL ATTACHMENT MEANS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 04 October 2005.

BACKGROUND

On 28 March 2003, applicant filed international application PCT/US03/09695, which claimed priority of an earlier United States application filed 01 April 2002. The thirty-month period for paying the basic national fee in the United States expired on 01 October 2004.

On 01 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a credit card payment form which authorized the Office to charge $365.00 for the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/US03/09695 became abandoned as to the United States for failure to timely pay the full basic national fee.

On 02 September 2005, applicant filed petitions under 37 CFR 1.183 and 37 CFR 1.137(b).

On 30 September 2005, this Office mailed a decision dismissing the 02 September 2005 petitions.

On 04 October 2005, applicant file the present renewed petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1) above, the required reply has been submitted.

With regard to item (2) above, the required petition fee has been submitted.

With regard to item (3) above, the required statement has been provided.

With regard to item (4) above, because the application was filed after 08 June 1995, a terminal disclaimer is not required.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 28 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 December 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision. After the application has completed initial processing and has been forwarded to the appropriate Technology Center for examination, the application will be taken up out of order pursuant to 37 CFR 1.496(b) and MPEP 1893.03, since the presented claims were deemed by the United States International Preliminary Examining Authority (IPEA/US) to satisfy the criteria of PCT Article 33(1)-(4) as to novelty, inventive, step, and industrial applicability.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

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In re Application of :
Fareed Kureshy, et al. :
Application No. 10/509,986 : DECISION ON PETITION
Filed: November 2, 2004 : TO WITHDRAW
Attorney Docket No. 100788.0009US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 30, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because practitioners have not certified that (1) he has given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) has delivered to his client or duly authorized representative of the client all papers and property (including funds) to which the client is entitled; (3) notified the client of any responses that may be due and the time frame within which the applicant must response. However, if practitioner cannot make all of the certifications, an explanation detailing why the certification cannot be made and must be included with the Request. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
Fareed Kureshy, et al. :
Application No. 10/509,986 : DECISION ON PETITION
Filed: November 2, 2004 : TO WITHDRAW
Attorney Docket No. 100788.0009US : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Blank copy of form PTO/SB/83

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

15 SEP 2005

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, AUSTRALIA 2041

In re Application of SILVERBROOK	:	
U.S. Application No.: 10/509,998	:	
PCT Application No.: PCT/AU02/00774	:	
Int. Filing Date: 14 June 2002	:	DECISION
Priority Date Claimed: 12 April 2002	:	
Attorney Docket No.: YU183US	:	
For: PROCESSING OF IMAGES FOR HIGH VOLUME PAGEWIDTH PRINTING	:	

This is in response to applicant's petition to withdraw holding of abandonment filed 14 April 2005, which is being treated under 37 CFR 1.181.

BACKGROUND

On 14 June 2002, applicant filed international application PCT/AU02/00774, which claimed priority of an earlier United States application filed 12 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 12 October 2004.

On 05 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a check in the amount of $1,080.00 for the basic national fee and an assignment recording.

On 21 March 2005, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to file the full basic national fee.

On 14 April 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of USPTO records reveals that applicant's check for $1,080.00 was received prior to the expiration of 30 months from the priority date. However, effective 01 October 2004, the basic national fee for an application filed under 37 CFR 1.492(a)(3) was $1,110.00. Therefore, the application became abandoned for failure to timely file the full basic national fee.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

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BALMAIN, AUSTRALIA 2041

In re Application of SILVERBROOK :
U.S. Application No.: 10/509,998 :
PCT Application No.: PCT/AU02/00774 :
Int. Filing Date: 14 June 2002 : DECISION
Priority Date Claimed: 12 April 2002 :
Attorney Docket No.: YU183US :
For: PROCESSING OF IMAGES FOR HIGH :
VOLUME PAGEWIDTH PRINTING :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 13 October 2005.

BACKGROUND

On 14 June 2002, applicant filed international application PCT/AU02/00774, which claimed priority of an earlier United States application filed 12 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 12 October 2004.

On 05 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a check in the amount of $1,080.00 for the basic national fee and an assignment recording.

On 21 March 2005, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to file the full basic national fee.

On 14 April 2005, applicant filed a petition under 37 CFR 1.181.

On 15 September 2005, this Office mailed a decision dismissing the 14 April 2005 petition.

On 13 October 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 June 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 October 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

0 4 FEB 2008

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Silverbrook Research PTY LTD
393 Darling Street
Balmain, 2041
Australia

In re Application of	:	
Silverbrook	:	
Serial No.: 10/509,999	:	DECISION ON
PCT No.: PCT/AU2002/000766	:	PETITION
Int. Filing Date: 13 June 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 12 April 2002	:	
Attorney's Docket No.: YU184NPUS	:	
For: WIDE FORMAT PAGEWIDTH INKJET PRINTER	:	

This decision is responsive to the "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION. UNDER 37 C.F.R. § 1.137(b)" filed 17 July 2007.

BACKGROUND

On 13 June 2002, applicants filed international application PCT/AU02/00766, which claimed priority of an earlier United States application filed 12 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 12 October 2004.

On 05 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, an IDS, the signed declaration, an assignment and a check for $1080. These papers were assigned Application No. 10/509,999.

On 01 October 2004, the basic national fee for a large entity where the international preliminary examination fee nor the international search fee were paid the USPTO and the International Search Report was not prepared by the EPO or JPO, was $1110. Therefore, applicant did not pay the proper fee, and the application became abandoned.

On 23 May 2005, applicant filed a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT."

On 25 July 2005, the petition was dismissed because applicant did not pay the proper national stage filing fee when the application was filed, and the communication filed on 23 May 2005 did not contain the required fees and statements.

On 19 August 2005, applicant filed a "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION. UNDER 37 C.F.R. § 1.137(b)" filed 17 July 2007. This petition was accompanied by the $1500 petition fee, and the $30 underpayment of the basic national fee.

On 25 September 2005, the petition was granted.

On 11 May 2007, the originally filed $1040 was refunded to applicant by way of check.

On 25 June 2007, a "NOTIFICATION OF INSUFFICIENT BASIC NATIONAL FEE REQUIRED AND/OR MISSING COPY OF INTERNATIONAL APPLICATION UNDER 35 U.S.C.371 AND 37 CFR 1.495" (Form PCT/DO/EO/912) was mailed to applicant indicating that the basic national fee had not been paid.

On 17 July 2007, applicant filed the current "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION. UNDER 37 C.F.R. § 1.137(b)." Applicant included fees of $1500 for the petition, along with $300 for the basic national fee.

On 15 November 2007, a "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" (Form PCT/DO/EO/WITH) was mailed to applicant indicating that the "NOTIFICATION OF INSUFFICIENT BASIC NATIONAL FEE REQUIRED AND/OR MISSING COPY OF INTERNATIONAL APPLICATION UNDER 35 U.S.C.371 AND 37 CFR 1.495" (Form PCT/DO/EO/912) mailed 25 June 2007 was mailed in error, along with the "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) and the filing receipt.

DISCUSSION

Applicant's petition to revive the application under 37 CFR 1.137(b), filed 17 July 2007 is moot since the application was/is not abandoned.

However, there remains an issue with the fees in this application. Applicant should have been charged $300 for the basic national fee, $200 for the examination fee, $400 for the search fee, and $1500 for the petition fee (for the petitions filed in 2005).

The applicant originally paid $1080 (which was the fee at the time of filing). Applicant paid a $1500 petition fee and an additional $30 fee on 25 August 2005. On 17 July 2007, applicant filed another $1500 petition fee and $300 for the basic national fee.

On 11 May 2007, $1040 was retuned to applicant by check.

Thus, after the refund 11 May 2007, applicant has paid $3370 for this application. The fees currently owed in the application include the petition fee of $1500, the basic national fee of $300, the examination fee of $200, the search fee of $400, and the assignment fee of $40 for a total of $2440. Therefore, the applicant is owed a **REFUND** of **$930**.

CONCLUSION

Applicant's petition to revive the application under 37 CFR 1.137(b), filed 17 July 2007 is **MOOT** since the application was/is not abandoned.

The excess payment of **$930** is being refunded to applicant's **Deposit Account # 504049**.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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19 SEP 2006

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, AUSTRALIA NSW 2-041

In re Application of	:	
SILVERBROOK, Kia et al.	:	
Application No.: 10/510,000	:	DECISION
PCT No.: PCT/AU02/00765	:	
Int. Filing Date: 13 June 2002	:	ON PETITION UNDER
Priority Date: 12 April 2002	:	
Docket No.: YU182US	:	37 CFR 1.137(b)
For: A PRINT ASSEMBLY FOR A WIDE FORMAT PAGEWIDTH PRINTER	:	

This is a decision on applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 30 May 2006.

BACKGROUND

On 13 June 2002, applicant filed an international application number PCT/AU02/00765. A copy of the international application was transmitted to the Office by the International Bureau on 23 October 2003. As such, the thirty month period for entering the national stage in the United States expired at midnight on 12 October 2004.

On 05 October 2004, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by a check for $1080. The transmittal letter indicated that $1040 were for the basic national fee, while $40 were for the recording of an assignment.

On 05 April 2005, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to pay the basic national fee by thirty months from the priority date.

On 05 May 2005, applicant submitted a petition to withdraw the holding of abandonment, indicating that applicant had paid $1080 with its national phase submission.

On 30 May 2006, applicant submitted the instant petition under 37 CFR 1.137(b), indicating that applicant now realized that the basic national fee on 05 October 2004 was $1100.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first

became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (2), (3) and (4) have been satisfied. Applicant has made the necessary statement of unintentional delay. The petition fee has been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. As to the basic national fee, the basic national fee owed is the basic national fee when the fee is paid. The structure of national fee payment has changed since October 2004. National Stage entry now requires the basic national fee, the search fee, the examination fee and a late fee if the search and examination fees are not paid by thirty months. The total of these new fees is $1030.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Phase Processing Branch of PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 08 December 2004.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-24-06

TO SPE OF : ART UNIT 1773

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/510012 Patent No.: 7045 2[illegible]

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Can this be Approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE

1773
Art Unit

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OFFICE OF PETITIONS

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

In re Application of	:	
Soto-Jara et al.	:	DECISION ON APPLICATION
Application No. 10/510,015	:	FOR
Filed: April 18, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. : OX40R	:	
BINDING AGENTS	:	
Title: OX40R BINDING AGENTS	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed November 18, 2009. Applicants request that the patent term adjustment indicated on the initial determination of patent term adjustment be corrected from zero (0) days to five hundred and nine (509) days.

The request for review of the patent term adjustment is **DISMISSED**.

On October 30, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

It is noted that the 371 acceptance letter (M903) mailed on October 3, 2006 indicates that the fulfillment date (the date of completion of all 35 U.S.C. § 371 requirements) is April 18, 2006 and the priority date is April 3, 2002.

[1] PALM records indicate that the issue fee was received on January 11, 2010.

37 CFR 1.702(a)(1) states that the term of an original patent shall be adjusted by the failure of the Office to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application.

This application fulfilled the requirements of 35 U.S.C. 371 in an international application on April 18, 2006, and a restriction requirement was mailed 14 months and 36 days later on July 24, 2007, resulting in 36 days of examination delay. Petitioner contests this finding and asserts that this mailing resulted in a delay of 598 days.

It is noted in passing that Petitioner makes reference to a decision in US. Patent No. 7,465,444 involving "the 30-month date."[2] However, Petitioner will note that the 30-month anniversary of the priority date constitutes the commencement date,[3] which is used for calculating the period of delay set forth in 37 CFR 1.702(b), and not the period of delay set forth in 37 CFR 1.702(a)(1).

Petitioner's assertion regarding the inaccuracy of the 36-day reduction is not persuasive. The delay is properly calculated as running from the *fulfillment date* until the mailing of the restriction requirement. Petitioner has erroneously *calculated the period of delay by beginning at the commencement date (instead of the fulfillment date) and concluding with the date of the mailing of the restriction requirement.*

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 0 (36 days of Office delay minus 92 days of Applicant delay[4]) days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays

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[2] Petition, page 2.

[3] This international application has a priority date of April 3, 2002. The 30-month anniversary of this date, October 3, 2004, fell on a Sunday. As such, the commencement date of this international application is October 4, 2004.

[4] The 92-day reduction for Applicant delay is not in dispute.

under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

25 JUN 2007

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PERRET DOISE
A PROFESSIONAL LAW CORPORATION
P.O. DRAWER 3408
LAFAYETTE, LA 70502-3408

In re Application of	:	
Telfer	:	
Application No.: 10/510,016	:	DECISION
PCT No.: PCT/GB03/01426	:	
Int. Filing Date: 01 April 2003	:	ON
Priority Date: 02 April 2002	:	
Attorney Docket No.: 257.038	:	PETITION
For: Junk Removal Tool	:	

This is a decision on applicant's "Petition To Withdraw Holding Of Abandonment..." filed on 15 March 2007, and the correspondence filed on 06 March 2007 and 30 May 2007, which are being treated under 37 CFR 1.10(e).

BACKGROUND

This international application was filed on 01 April 2003, claimed a priority date of 02 April 2002, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 09 October 2003. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 02 October 2004. Applicant filed *inter alia* the basic national fee on 30 September 2004.

On 10 February 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e) then in effect.

On 01 March 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 10 February 2005.

On 13 March 2007, a Withdrawal of Previously Sent Notice was mailed to applicant, indicating that "The Notice of Abandonment mailed on 03/01/2007 was sent in error and is hereby withdrawn. A Filing Receipt is enclosed. The Office regrets any inconvenience the error may have caused." Also mailed was a Notice of Acceptance (Form PCT/DO/EO/903) reflecting a date under 35 U.S.C. 371(c)(1), (2) and (4) of "02/23/2005."

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment on the basis that a response allegedly was filed via Express Mail on 23 February 2005. Petitioner's attention is respectfully directed to 37 CFR 1.10(e), which provides that

> Any person mailing correspondence addressed as set out in §1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The instant petition complies with **37 CFR 1.10(e)(1)**.

Regarding **37 CFR 1.10(e)(2)**, petitioner has provided a copy of a "Certificate of Express Mail" itemizing the response allegedly filed on 23 February 2005 and bearing "Express Mail" mailing label no. EV494675005US. This satisfies requirement (2).

With regard to **37 CFR 1.10(e)(3)**, counsel has provided a satisfactory showing, including (in addition to the evidence discussed under requirement (2)) a copy of the "Customer Copy" of Express Mail mailing label EV494675005US bearing a "date-in" of "02 23 05" and a USPS plug stamp of "FEB 23 2005," as well as a print-out of the USPS "Track & Confirm" web page corresponding to EV494675005US and showing an acceptance date of 23 February 2005.

Concerning **37 CFR 1.10(e)(4)**, petitioner has provided a statement made on the basis of first-hand knowledge by Ms. Gloria Richard, attesting to the original mailing of the correspondence in question as "Express Mail." Petitioner states that the return postcard receipt was never received by counsel, and refers to the papers accompanying the petition as copies of the corresponding papers originally filed on 23 February 2005. In view of the totality of the evidence presented, it would be appropriate to consider the requirements of 37 CFR 1.10(e)(4) to have been satisfied.

The declaration document and transmittal letter (with fee authorization) filed on 15 March 2007 are being accepted as copies of those originally filed on 23 February 2005. The Notification of Abandonment (Form PCT/DO/EO/909) mailed on 01 March 2007 is hereby **VACATED**. The Notice of Acceptance (Form PCT/DO/EO/903) mailed on 13 March 2007 is hereby ratified.

CONCLUSION

The petition is **GRANTED**.

This application is being returned to Technology Center 3600 for further proceedings.

George Dombroske
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Office of PCT Legal Administration
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 12 2007

OFFICE OF PETITIONS

Applicant: Din Belle, et al.
Appl. No.: 10/510,019
International Filing Date: April 3, 2003
Title: POLYCYCLIC COMPOUNDS AS POTENT ALPHA2-ADRENOCEPTOR ANTAGONISTS
Attorney Docket No.: 06267.0124
Pub. No.: US 2006/0094740 A1
Pub. Date: May 4, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on June 27, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: David Din Belle	: DECISION ON REQUEST FOR
Patent Number	: 7592350	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/510,019	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1088** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ESPERANTE BUILDING
222 LAKEVIEW AVENUE, SUITE 400
WEST PALM BEACH FL 33401-6183

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,064,102 :
Issue Date: June 20, 2006 :
Application No. 10/510,024 : DECISION ON PETITION
Filed: October 1, 2004 :
Attorney Docket No. 3968.123 :

This is a decision on the petition filed March 26, 2007, which is being treated under 37 CFR 1.181 (no fee), requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the nonreceived Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish nonreceipt of the original Letters patent. Accordingly, Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 270-9937

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Paper No. 062705

SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA PA 19103

NOV 1 2005

In re Application of:	:	
Hual Lin	:	
Serial No.: 10/510,030	:	DECISION ON REQUEST TO WITHDRAW
Filed: October 01, 2004	:	FROM RECORD
Attorney Docket No.: **GB/13452.22**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 27, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Gwendoline Bruneau, on behalf of herself. There is no outstanding Office action at this time.

The request is **APPROVED**.

Joan T. Kluger, Kenneth R. DeRosa, Gerard J. Weiser, Robert A. Mckinley and Stephanie W. Yeung remain of record at this time.

All future communications from the Office will be directed to SCHNADER HARRISON SEGAL & LEWIS, LLP, at the above address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

0 4 FEB 2008

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SUITE 901
WASHINGTON DC 20006

In re Application of	:	
MASUMOTO et al.	:	
Application No.: 10/510,049	:	DECISION
PCT No.: PCT/JP03/04161	:	
Int. Filing Date: 31 March 2003	:	
Priority Date: 01 April 2002	:	
Attorney Docket No.: 0074/044001	:	
For: IMAGE REPRODUCTION DEVICE AND IMAGE REPRODUCTION METHOD	:	

This decision is in response to applicant's "REQUEST FOR REFUND" filed in the United States Patent and Trademark Office (USPTO) on 08 January 2008.

BACKGROUND

On 31 March 2003, applicant filed international application PCT/JP03/04161, which designated the U.S. and claimed a priority date of 01 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 09 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 October 2004.

On 01 October 2004, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495, according the application a 35 U.S.C. 371 date of 01 October 2004.

On 20 October 2006, applicant filed the instant "REQUEST FOR REFUND".

DISCUSSION

The request for refund requests a refund of $1,050 charged on 01 November 2007. A review of the application file reveals that the credit card payment on that date of $1,050 was applied as a fee for a three-month extension of time and the Deposit Account was charged the same amount for independent claims in excess of three. Because no extension of time was required, $1,050 will be credited to the credit card.

CONCLUSION

The request for refund under 37 CFR 1.26 is **GRANTED** for the reasons set forth above.

/Daniel Stemmer/

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CHARLOTTE, NC 28280-4000

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of

William Basil Harrold :

Application No. 10/510,062

: DECISION ON PETITION

Filed: May 2, 2005

:

Attorney Docket No. 040857-283537

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 1, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 2, 2005.

The amendment filed March 7, 2006, is noted.

The request for an extension of time within the third month, filed January 7, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of $1020.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2600, GAU 2617 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

#4

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Robert A. Franks
Dr. Reddy's Laboratories, Inc.
200 Somerset Corporate Blvd
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Bridgewater, NJ 08807-2862

In re Application of: KAMALAKAR, Talasila, et al.
U.S. Application No.: 10/510,064
PCT No.: PCT/IB02/01068
International Filing Date: 04 April 2002
Priority Date: None
Attorney's Docket No.: GEN 3.3-015
For: NOVEL PHARMACEUTICAL COMPOSITIONS FOR ANTIHISTAMINIC-DECONGESTANT COMBINATION AND METHOD OF MAKING SUCH COMPOSITIONS

DECISION ON PETITION

This decision is issued in response to applicants' "Petition To Withdraw Holding Of Abandonment" filed 04 March 2005, treated herein under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 04 April 2002, applicants filed international application PCT/IB02/01068 which designated the United States. On 16 October 2003, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for payment of the basic national fee was thirty months from the international filing date, i.e., 04 October 2004.

On 04 October 2004, applicant filed a Form PTO-1390 Transmittal Letter for entry into the national stage in the United States. The Transmittal Letter requested that the USPTO charge Deposit Account No. 50-3220 for required fees, including the basic national fee. However, the form was not signed by a person empowered to authorize charges against this Deposit Account.

On 24 February 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to provide the basic national fee within thirty months of the international filing date.

On 04 March 2005, applicant filed the present petition. The petition seeks withdrawal of the holding of abandonment, arguing that the 04 October 2004 submission was sufficient to prevent abandonment.

DISCUSSION

Pursuant to 37 CFR 1.495(b)(2), an international application becomes abandoned with respect to the United States if the basic national fee is not paid before the expiration of thirty months from the priority date.[1] Applicants here were therefore required to pay the basic national fee prior to midnight on 04 October 2004 (thirty months from the priority date). As noted above, the materials filed by applicant on 04 October 2004 did not include payment of the basic national fee. The Form PTO-1390 Transmittal Letter filed stated that such fees should be charged to Deposit Account No. 50-3220; however, the attorney signing the form is not one of the persons empowered to authorize charges on this Deposit Account.

Petitioner argues that the Form PTO-1390 does not have a space for listing the Deposit Account holder and that this somehow alleviates the need for a proper authorization to charge the Deposit Account. However, it is not the name of the Deposit Account holder that is necessary; rather, it is the signature of an authorized person that is required. The holder of Deposit Account No. 50-3220 has not listed Robert A. Franks as a person empowered to authorize charges against this Deposit Account. Accordingly, Mr. Franks "authorization" to charge the basic national fee to this account (contained on the filed Form PTO-1390) is ineffective. Absent the authorization of an empowered individual, the USPTO is not permitted to charge fees against a Deposit Account. Accordingly, the Form PTO-1390 transmittal Letter filed 04 October 2004 did not include the fee payment required to avoid abandonment. The holding of abandonment is therefore proper.

Petitioner also argues that the USPTO should have contacted applicant if there was a "perceived deficiency in the national phase documents, prior to the determination that the application was abandoned." However, as noted above, the failure to pay the basic national fee before the expiration of the thirty month deadline results in the automatic abandonment of the application as a function of law. Since applicants' 04 October 2004 submission was made on the last day of the thirty month deadline period, no subsequent corrections by applicant could have served to prevent the abandonment (even if the applicable deficiency had been brought to petitioner's attention by the USPTO).

CONCLUSION

Applicants' petition under 37 CFR 1.181 for withdrawal of the holding of abandonment is **DISMISSED** without prejudice.

If applicants seek reconsideration on the merits, a response must be filed within **TWO (2) MONTHS** of the mail date of this decision. Any such response should be entitled "Renewed

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[1] In cases such as here, where no earlier priority date is claimed, the international filing date is considered the priority date.

Petition Under 37 CFR 1.181" and must include evidence that applicant filed the basic national fee prior to the expiration of thirty months from the priority date.

Applicants might also consider filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b).

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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08 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert A. Franks
Dr. Reddy's Laboratories, Inc.
200 Somerset Corporate Blvd
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Bridgewater, NJ 08807-2862

In re Application of:	
KAMALAKAR, et al.	DECISION ON PETITION
U.S. Application No.: 10/510,064	UNDER 37 CFR 1.137(b)
PCT No.: PCT/IB02/01068	
Int'l Filing Date: 04 April 2002	
Priority Date: None	
Attorney's Docket No.: GEN 3.3-015	
For: NOVEL PHARMACEUTICAL COMPOSITIONS FOR ANTIHISTAMINIC-DECONGESTANT COMBINATION AND METHOD OF MAKING SUCH COMPOSITIONS	

The petition to revive under 37 CFR 1.137(b) filed 08 April 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statements herein and in the previous "Petition To Withdraw Holding Of Abandonment" are construed as the statement required under 37 CFR 1.137(b)(3), that is, a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Applicants must inform this Office immediately if this is not a proper interpretation of applicants' statements. Based on this interpretation, the requirement of 37 CFR 1.137(b)(3) is considered satisfied.

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an

oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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18 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEYDIG VOIT & MAYER, LTD
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, IL 60601-6780

In re Application of :
TAYLOR, Jeremy Simon Hudson *et al* :
U.S. Application No.: 10/510,065 :
PCT No.: PCT/GB03/01498 :
Int. Filing Date: 04 April 2003 :
Priority Date: 04 April 2002 :
Attorney Docket No.: 231101 :
For: STIMULATION OF NERVE CELL REGENERATION :

DECISION ON REQUEST FOR REFUND

This decision is in response to applicants' "Request for Refund" filed via facsimile on 05 April 2005 requesting a refund of $318.00 which is **GRANTED** for the following reason.

The USPTO charged a multiple dependent fee of $300.00 and additional claim fee of $18.00 with the national stage filing. However, applicants filed a preliminary amendment with the national stage papers on 04 October 2004. As such, the claims were amended so that no multiple dependent claims exist and the total number of claims remained at twenty.

The multiple dependent claim fee of $300.00 (Fee Code 1616) and an extra claim fee of $18.00 (Fee Code 1615) are credited to Deposit Account No. 12-1216 as authorized.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

24 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Chicago, IL 60601-6780

In re Application of :
TAYLOR, Jeremy Simon Hudson *et al* :
U.S. Application No.: 10/510,065 :
PCT No.: PCT/GB03/01498 :
Int. Filing Date: 04 April 2003 :
Priority Date: 04 April 2002 :
Attorney Docket No.: 231101 :
For: STIMULATION OF NERVE CELL REGENERATION :

DECISION ON REQUEST FOR REFUND

This decision is in response to applicants' second "Request for Refund" filed via facsimile on 23 August 2005 which is **GRANTED**.

In a decision dated 18 May 2005, applicant's previous request for a refund of $318.00 was granted and the money refunded. Applicants filed a preliminary amendment to amend the claims so that no multiple dependent claims existed and the total number of claims remained at twenty. However, the $318.00 in additional claim fees were erroneously charged again on 11 July 2005.

This mistake has been corrected. The multiple dependent claim fee of $300.00 (Fee Code 1616) and an extra claim fee of $18.00 (Fee Code 1615) are credited back to Deposit Account No. 12-1216 as authorized.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
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02 SEP 2005

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In re Application of :
TAYLOR, Jeremy Simon Hudson *et al* :
U.S. Application No.: 10/510,065 :
PCT No.: PCT/GB03/01498 :
Int. Filing Date: 04 April 2003 : **DECISION**
Priority Date: 04 April 2002 :
Attorney Docket No.: 231101 :
For: STIMULATION OF NERVE CELL REGENERATION :

This decision is in response to applicants' "Request for Corrected Filing Receipt" filed via facsimile on 30 August 2005 which is treated under 37 CFR 1.181 and hereby **GRANTED** as follows:

Applicant claims that the filing date of 06 June 2005 listed on the filing receipt and Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed was incorrect. The correct filing date should be 20 June 2005.

A review of the application verifies that a declaration in compliance with 37 CFR 1.497(a) and (b) was submitted on 20 June 2005. Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 13 July 2005 are not correct and are hereby **VACATED**.

A corrected filing receipt and Form PCT/DO/EO/903 indicating a filing date of 20 June 2005 will be mailed with this decision. The application will then be forwarded to Technology Center 1600 for further processing.

James Thomson
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Office of PCT Legal Administration

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16 AUG 2005

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MCGLEW & TUTTLE, PC
1 Scarborough Station Plaza
Scarborough, NY 10510-0827

In re Application of:	:	
KOSTIN, Vladimir, Vladimirovich	:	
U.S. Application No.:10/510,070	:	
PCT No.: PCT/RU03/00116	:	COMMUNICATION
International Filing Date: 26 March 2003	:	
Priority Date: 02 April 2002	:	
Attorney's Docket No.: 71545	:	
For: DEVICE FOR PULLING MONOCRYSTALS	:	

This application is before the Office Of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 26 March 2003, applicant filed international application PCT/RU03/00116, which claimed a priority date of 02 April 2002 and which designated the United States. On 09 October 2003, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 02 October 2004.

On 29 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration.

On 07 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) that identified 08 February 2005 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371 Requirements." The Notification Of Acceptance also identified the inventor as Margaret Forney Prescott, the international filing date as 02 April 2002, and did not list a priority date.

Also on 07 March 2005, a filing receipt was issued herein. The filing receipt identified the filing date of the present application as 08 February 2005, listed the international filing date of the PCT application as 02 April 2002, and identified the applicant as Margaret Forney Prescott.

DISCUSSION

A review of the application file reveals that the Notification Of Acceptance and filing receipt mailed 07 March 2005 contain numerous errors. Specifically, the documents include an incorrect name for the applicant, an incorrect 35 U.S.C. 371(c) date, and an incorrect international filing date for the PCT application. Accordingly, the Notification Of Acceptance and filing receipt mailed herein on 07 March 2005 are appropriately vacated.

CONCLUSION

The Notification Of Acceptance and filing receipt mailed 07 March 2005 are hereby **VACATED**.

Issued herewith are a corrected Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt containing the correct: (1) applicant's name: **Vladimir Vladimirovich KOSTIN**;(2) "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date Of Completion Of All 35 U.S.C. 371 Requirements:" **29 September 2004**; (3) international filing date for PCT/RU03/00116: **26 March 2003**; and (4) priority date: **02 April 2002**.

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Tae-Hwan Kim	: DECISION ON REQUEST FOR
Patent Number	: 7649599	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/510,077	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **646** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

19 DEC 2005

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Daniel H. Golub
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103-2921

In re Application of	:	
SAUNDERS, Ian	:	
U.S. Application No.: 10/510,082	:	
PCT No.: PCT/NL03/00247	:	DECISION ON PETITION
Int. Filing Date: 02 April 2003	:	UNDER 37 CFR 1.47(b)
Priority Date: 02 April 2002	:	
Attorney Docket No.: 060327-5002	:	
For: STAGE DEVICE FOR A VACUUM CHAMBER	:	

This decision is in response to applicant's "Petition By Person Haing Proprietary Interest to File Application on Behalf of Inventor Who Cannot Be Found" which is being treated as a petition under 37 CFR 1.47(b) filed 11 May 2005 to accept the application without the signature of the sole inventor, Ian Saunders. The $200 petition fee has been submitted.

BACKGROUND

On 02 April 2003, applicant filed international application PCT/NL03/00247 which claimed a priority date of 02 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 October 2004.

On 01 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1)and a copy of the international application.

On 07 March 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 11 May 2005, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1)and (6). However, items (2); (3); (5) and (6) have not been satisfied.

As to item (2), petitioner states that Ian Saunders cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

A review of the present petition reveals that petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Ian Saunders. Petitioner has provided a copy of the cover letter and mailing label addressed to Mr. Saunders mailed May 4, 2005 via DHL Overnight Delivery. However, it is unclear as to the delivery status of the letter. Was the registered letter returned as undeliverable? Further, it appears that the application papers were mailed to Mr. Saunders' corporate address. In this situation, the application papers should be submitted to the inventor at his last known residence home address to insure receipt. Has petitioner attempted to locate Mr. Saunders' last known residence address? (See MPEP §605.03)

Regarding item (3) above, a clear statement of the last known address of the non-signing inventor has not been provided. In situations where an inventor does not execute the oath or declaration, the inventor's address should be the last know address at which the inventor customarily receives mail. (See MPEP §605.03) Ordinarily, the last known address will be the last known residence of the nonsigning inventor. (See MPEP §409.03(e))

Regarding Item (4), an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has not been provided.

Concerning Item (5), petitioner has not demonstrated that applicant has a propriety interest in the invention. (See M.P.E.P., §409.03(f))

For the reasons stated above, it would not be appropriate to accept the application without the signature of Ian Saunders under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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05 JUN 2007

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Morgan, Lewis & Bockius, LLP
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In re Application of
SAUNDERS, Ian
U.S. Application No.: 10/510,082
PCT No.: PCT/NL03/00247
Int. Filing Date: 02 April 2003
Priority Date: 02 April 2002
Attorney Docket No.: 060327-5002
For: STAGE DEVICE FOR A VACUUM CHAMBER

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Request for Reconsideration and Renewed Petition under 37 CFR 1.47(b)" filed 24 July 2006 to accept the application without the signature of the sole inventor, Ian Saunders. The $200 petition fee has been submitted.

BACKGROUND

On 02 April 2003, applicant filed international application PCT/NL03/00247 which claimed a priority date of 02 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 October 2004.

On 01 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1)and a copy of the international application.

On 07 March 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 11 May 2005, applicant filed a petition under 37 CFR 1.47(b). In a decision dated 19 December 2005, applicant's petition was dismissed without prejudice.

On 24 July 2006, applicant filed "Request for Reconsideration and Renewed Petition under 37 CFR 1.47(b)."

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1) and (6). However, items (2); (3); (5) and (6) have not been satisfied.

As to item (2), petitioner states that Ian Saunders cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

A review of the present petition reveals that petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Ian Saunders. Petitioner states that a copy of the application papers were mailed to Ian Saunders on 04 May 2005 and 13 July 2006. However, it appears that these papers were mailed to Mr. Saunders' corporate address, which appears to be the same address as the 37 CFR 1.47(b) applicant. Therefore, the 04 May 2005 and 13 July 2006 mailings cannot considered as documentary evidence that the nonsignning inventor could not be found or reached. Further, petitioner states he attempted to contact Ian Saunders via electronic mail. A copy of the electronic mail has been provided. However, petitioner fails to include evidence to demonstrate that the materials were actually received by the nonsigning inventor. Lastly, petitioner should provide verification that the email address (saunders@tpd.tno.nl) belongs to the nonsigning inventor.

Regarding item (3) above, a clear statement of the last known address of the non-signing inventor has not been provided. In situations where an inventor does not execute the oath or declaration, the inventor's address should be the last know address at which the inventor customarily receives mail. (See MPEP §605.03) Ordinarily, the last known address will be the last known residence of the nonsigning inventor, not the address of the 37 CFR 1.47 applicant. (See MPEP §409.03(e))

Regarding Item (4), petitioner has submitted a declaration which included an unsigned signature block for the nonsigning inventor, Ian Saunders. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify each inventor and the country of citizenship of the inventor. In this case, the declaration does not identify the citizenship of the inventor (Ian Saunders). Additionally, the citizenship of the inventor is not included on the "Added Page to Combined Declaration and Power of Attorney. . ." Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Regarding item (5), petitioner has not demonstrated that applicant has a propriety interest in the invention. Petitioner has provided a letter from Alexander Ferguson, Dutch and European patent attorney, which states that Mapper Lithography IP B.V. has proprietary interest in the application. However, Alexander Ferguson fails to provide documentary evidence that the 37 CFR 1.47(b) applicant has a propriety interest in the invention, i.e., assignment; employment agreement; or legal memorandum. As stated above, when an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Ian Saunders under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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16 MAY 2008

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Daniel H. Golub
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103-2921

In re Application of		
SAUNDERS, Ian	:	
U.S. Application No.: 10/510,082	:	
PCT No.: PCT/NL03/00247	:	DECISION ON PETITION
Int. Filing Date: 02 April 2003	:	UNDER 37 CFR 1.47(b)
Priority Date: 02 April 2002	:	
Attorney Docket No.: 060327-5002	:	
For: STAGE DEVICE FOR A VACUUM CHAMBER	:	

This decision is in response to applicant's "Response to Decision on Petition under 37 CFR 1.47(b)" filed 28 November 2007. In a decision dated 05 June 2007, applicant's renewed petition under 37 CFR 1.47(b) to accept the application without the signature of inventor, Ian Saunders, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(b) is moot since the declaration filed 28 November 2007 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Ian Saunders. The declaration filed 28 November 2007 is acceptable under 37 CFR 1.497.

For the reasons above, the renewed petition is **DISMISSED** as moot. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

The application has an international filing date of 02 April 2003 under 35 U.S.C. 363 and a date of 28 November 2007 under 35 U.S.C. 371(c).

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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RATNERPRESTIA
P.O. BOX 1596
WILMINGTON, DE 19899

Mail Date: 06/02/2010

Applicant	: Julian Neal Robinson	: DECISION ON REQUEST FOR
Patent Number	: 7641957	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/510,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAILED

DEC 26 2007

TECHNOLOGY CENTER 2100

In re Application of:
Munetake EBIHARA et al.
Application No. 10/510,089
Attorney Docket No. 09812.07530-00000
Filed: June 20, 2005
For: INFORMATION PROCESSING DEVICE LICENSE INFORMATION RECORDING MEDIUM, INFORMATION PROCESSING METHOD, AND COMPUTER PROGRAM

DECISION ON PETITION TO WITHDRAW FINALITY OF OFFICE ACTION UNDER 37 CFR § 1.181 AND WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is a decision on the petition filed July 19, 2007 under 37 C.F.R. §1.181 and 37 C.F.R. §1.144 to withdraw finality of Office Action and to withdraw an outstanding restriction requirement.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

October 19, 2006	A non-final Office action was mailed rejecting claims 1-19.
January 12, 2007	An amendment was filed canceling claims 1-19 and adding new claims 20-36. Claims 20-36 were pending.
April 04, 2007	A Final Office action was mailed including (1) election of claims 1-19 by original presentation and (2) withdrawal of claims 20-36 from consideration as non-elected due to the new claims 20-36 being directed to an invention that is independent or distinct from the invention originally claimed.

May 14, 2007	A telephonic interview was conducted (mailing date of May 21, 2007) indicating that the Final Office Action mailed April 4, 2007 was withdrawn and a new Office Action will be mailed.
May 21, 2007	Another Final Office Action was mailed (1) repeating the restriction requirement and (2) removing the rational to show the distinctness between the two alleged groups of inventions.
July 05, 2007	A Notice of Non-Compliant Amendment and an Interview Summary (PTO-413) were mailed indicating the Final Office Action mailed May 21, 2007 was withdrawn and all remaining claims are readable on the elected invention (claims 1-19).
July 19, 2007	The instant petition was filed seeking (1) to withdraw the Final Office Action mailed May 21, 2007 and (2) to withdraw the improper restriction requirement.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

> If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.181 states:

> (a) Petition may be taken to the Commissioner:
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding

which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex-parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 806.05(d) states in part:

> Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, **are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants**. To support a restriction requirement where applicant separately claims plural subcombinations usable together in a single combination and claims a combination that requires the particulars of at least one of said subcombinations, both two-way distinctness and reasons for insisting on restriction are necessary... [Emphasis added.]

MPEP § 821.01 states:

> Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner.

37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed several requests for reconsideration prior to the petition of July 19, 2007, in accordance with 37 C.F.R. § 1.143. Although the restriction was never made final in accordance with MPEP § 821.01, the initial restriction requirement was maintained in two or more subsequent communications. To expedite prosecution of this application, the Office action of July 05, 2007, which maintained the restriction requirement, is being treated as a Final restriction requirement.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

A review of the first restriction based on original presentation mailed April 04, 2007 and the second restriction mailed May 21, 2007, it revolves that the examiner held the invention of newly added claims 20-36 and the invention of canceled claims 1-19 as being subcombinations disclosed as usable together in a single combination.

As stated in MPEP § 806.05(d), two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, **are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants**. A review of the new added claims 20-36 and the canceled claims 1-19 indicates that this two set of claims are substantially overlap in scope and are obvious variants. Therefore, the restriction based on original presentation is **improper**.

For the above reasons, the petition is **GRANTED**.

The restriction requirement is hereby **WITHDRAWN**. Further, since the restriction based on original presentation is improper, the Final Office Actions mailed April 04, 2007 and May 21, 2007 are herewith **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 20-36.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613

James Dwyer, TC 2100 Director
Computer Architecture, Software, and
Information Security

05 MAY 2006

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Kia Silverbrook
Managing Director
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Australia

In re Application of :
SILVERBROOK, Kia :
Application No.: 10/510,092 : DECISION ON PETITION
PCT No.: PCT/AU02/01061 :
Int. Filing Date: 06 August 2002 :
Priority Date: 17 June 2002 :
Attorney Docket No.: MJ85US :
For: NOZZLE GUARD FOR A PRINTHEAD

This decision is in response to applicant's "Petition for Withdrawal of Abandonment" filed on 27 June 2005, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 06 August 2002, applicant filed international application no. PCT/AU02/01061 which claimed priority date of 17 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 December 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, on 17 December 2004.

On 05 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: a check in the amount of $1080; a copy of the international application; an executed declaration; and an assignment for recordation.

On 16 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notice of Insufficient Basic National Fee Required and/or Missing Copy of the International Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/912).

On 27 June 2005, applicant filed a petition to withdraw the holding of abandonment under 37 CFR 1.181.

DISCUSSION

As stated above, applicant filed a transmittal letter requesting entry into the national stage along with a check for $1080 for the basic national fee. At time of filing, the basic national fee for a large entity for a whose search report was conducted by the Australian Patent Office was $1110. Since all the requirements under 35 U.S.C. 371(c) had not been met, national stage processing could not commence until the expiration of 30 months from the priority date (17 December 2004).

Effective 08 December 2004, the basic national filing fee was changed to $300 ($150 for small entity).[1] Since the time period to pay the basic national fee had not expired, the $1080 check was applied to the $300 basic national fee, on 08 December 2004. Hence, the basic national filing fee of $300 was considered paid on 08 December 2004.

The Notice of Insufficient Basic National Fee Required and/or Missing Copy of the International Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/912) dated 16 May 2005 was mailed in error and is hereby vacated.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notice of Insufficient Basic National Fee Required and/or Missing Copy of the International Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/912) mailed on 16 May 2005 is hereby **VACATED**.

The application has an international filing date of 06 August 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **08 December 2004**.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.

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Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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[1]Advance Notice Regarding Changes to Patent Fees Under the Consolidated Appropriations Act, 2005 was posted on the USPTO website on December 2, 2004. The public was advised to monitor the USPTO's Internet Web site frequently for current patent fee information pending enactment of the Act. On 08 December 2004, the Act was enacted into law and the basic national fee under 37 CFR 1.492(a) was changed to $300.

13 JUN 2006

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In re Application of :
SILVERBROOK, Kia :
Application No.: 10/510,092 : DECISION ON PETITION
PCT No.: PCT/AU02/01061 :
Int. Filing Date: 06 August 2002 :
Priority Date: 17 June 2002 :
Attorney Docket No.: MJ85US :
For: NOZZLE GUARD FOR A PRINTHEAD

This decision is issued in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed 30 May 2006 to revive the above-entitled application.

The petition under 37 CFR 1.137(b) is **DISMISSED** as moot.

Applicant states in the present petition that a response to the petition to withdraw the holding of abandonment filed on 27 June 2005 has not been received. The petition under 37 CFR 1.181 filed 27 June 2005 was granted by the Office of PCT Legal Administration in a decision dated 05 May 2005, a copy of the decision is attached herewith for your convenience.

Further, applicant contends, in the present petition, that the check in the amount $1080 was insufficient to pay the basic national fee. As stated in the previous decision, effective 08 December 2004, the basic national filing fee was changed to $300 ($150 for small entity).[1] Since the time period to pay the basic national fee had not expired, the $1080 check was applied to the $300 basic national fee, on 08 December 2004. Hence, the basic national filing fee of $300 was considered paid on 08 December 2004. Therefore, applicant's petition to revive is **DISMISSED as moot**.

[1]Advance Notice Regarding Changes to Patent Fees Under the Consolidated Appropriations Act, 2005 was posted on the USPTO website on December 2, 2004. The public was advised to monitor the USPTO's Internet Web site frequently for current patent fee information pending enactment of the Act. On 08 December 2004, the Act was enacted into law and the basic national fee under 37 CFR 1.492(a) was changed to $300.

The application has an international filing date of 06 August 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **08 December 2004**.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.

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14 MAR 2007

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In re Application of Kia SILVERBROOK
Application No.: 10/510,092
PCT No.: PCT/AU02/01061
Int. Filing Date: 06 August 2002
Priority Date: 17 June 2002
Attorney Docket No.: MJ85US
For: NOZZLE GUARD FOR A PRINTHEAD

DECISION ON PETITION

This decision is issued in response to applicant's "Request for Refund" filed on 16 August 2006. The request for refund under 37 CFR 1.26 is **GRANTED**.

> 37 CFR 1.26 provides, in part: (a) Any fee paid by actual mistake or in excess of that required will be refunded . . .

Applicant requests a refund of any additionally filing fees. On 05 October 2005, applicant submitted a check in the amount of $1080 ($1040 for the basic national fee and $40 for filing an assignment) and a request for entry into the national stage in the United States. As stated in the previous decisions, effective 08 December 2004, the national stage filing fees were changed in accordance with the Consolidation Appropriations Act (2005). Thus, the $1080 check should have been applied as followed: $300 for the basic national fee, $500 for the national stage search fee, $200 for the national stage examination fee; and $40 for filing an assignment. Hence, applicant is entitled to a refund of $40.

Additionally, applicant requests a refund of the petition to revive fee paid submitted on 30 May 2006. The petition to revive was dismissed as moot in a "Decision on Petition" dated 13 June 2006, therefore, applicant is entitled to a refund of $1530.

A refund check will be issued in due course. Thereafter, the application will be referred to GAU 2853 for further processing.

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#6

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10 JUL 2006

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In re Application of:
SILVERBROOK, Kia
U.S. Application No.: 10/510,094
PCT No.: PCT/AU02/01161
International Filing Date: 29 August 2002
Priority Date: 24 June 2002
Atty Docket No.: BAL20US
For: PHOTOGRAPHIC PRINTS HAVING MAGNETICALLY RECORDED MEDIA

DECISION ON PETITIONS

This decision is issued in response to applicant's petition to withdraw the holding of abandonment, filed 23 May 2005 (treated herein under 37 CFR 1.181), and the petition for revival under 37 CFR 1.137(b) filed 30 May 2006. No petition fee is required for the petition under 37 CFR 1.181, and applicant has submitted the petition fee required for the petition under 37 CFR 1.137(b).

BACKGROUND

On 29 August 2002, applicant filed international application PCT/AU02/01161. The international application claimed a priority date of 24 June 2002, and it designated the United States. On 31 December 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for payment of the full basic national fee was thirty months from the priority date, i.e., 24 December 2004.

On 05 October 2004, applicant filed a transmittal letter requesting entry into the national stage in the United States. The transmittal letter was accompanied by, among other materials, a check in the amount of $1,080 and an executed declaration.

On 21 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. basic national fee before the expiration of thirty months from the priority date.

On 23 May 2005, applicant filed the petition to withdraw the holding of abandonment considered below as a petition under 37 CFR 1.181. The petition seeks withdrawal of the

holding of abandonment based on applicant's inclusion of the $1,080 fee payment in the 05 October 2004 submission.

On 30 May 2006, applicant filed the petition for revival of an unintentionally abandoned application under 37 CFR 1.137(b), also considered below.

DISCUSSION

1. Petition Under 37 CFR 1.181:

The materials initiating the present national stage application were filed on 05 October 2004. These materials included a check in the amount of $1,080 ($1,040 for the U.S. basic national fee and $40 as the fee for recording an assignment). As of the filing date of the national stage papers, the applicable U.S. basic national fee was $1,110; applicant's 05 October 2004 fee payment was therefore not sufficient to meet the full U.S. basic national fee.

Pursuant to 37 CFR 1.495(h), an international application becomes abandoned with respect to the U.S. if the full basic national fee is not submitted prior to the expiration of thirty months from the priority date. Here, as noted above, applicant's 05 October 2004 fee payment of $1,080 did not include the full U.S. basic national fee applicable as of 05 October 2004. However, the applicable basic national fee for this application was reduced to $300 as of 08 December 2004, prior to the expiration of thirty months from the priority date (i.e., 24 December 2004). Because the USPTO was in receipt of the full applicable basic national fee prior to the expiration of thirty months from the priority date, abandonment of this application was improper.

The Notification Of Abandonment mailed 21 April 2005, based as it was on applicant's purported failure to submit the full basic national fee prior to the expiration of thirty months from the priority date, is therefore appropriately vacated.

2. Petition For Revival Under 37 CFR 1.137(b):

Based on the withdrawal of the holding of abandonment discussed above, applicant's petition for revival of the application under 37 CFR 1.137(b) filed 30 May 2006 is moot,

The $1530 in petition fees filed with this petition will be refunded to applicant.

It is noted that applicant's 05 October 2004 submission included an executed declaration in compliance with 37 CFR 1.497.

CONCLUSION

The petition for withdrawal of the abandonment under 37 CFR 1.181, filed 23 May 2005, is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 21 April 2005 is hereby vacated.

The petition for revival under 37 CFR 1.137(b), filed 30 May 2006, is **DISMISSED AS MOOT**.

The $1,530 in fees submitted with the petition for revival filed 30 May 2006 will be refunded to applicant.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 08 December 2004.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

28 JUL 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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24011
SILVERBROOK RESEARCH PTY LTD
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of :
SILVERBROOK :
U.S. Application No.: 10/510,095 :
PCT No.: PCT/AU02/01167 :
Int. Filing Date: 29 August 2002 : **DECISION**
Priority Date: 20 May 2002 :
Attorney Docket No.: YU188US :
For: A NOZZLE GUARD FOR AN INKJET PRINTHEAD :

This is a decision on the petition to withdraw the holding of abandonment filed 23 May 2005 and the petition to revive under 37 CFR 1.137(b) filed 30 May 2006

BACKGROUND

On 05 October 2004, applicant filed papers to enter the national stage of PCT/AU02/01167 which was accompanied by, *inter alia,* a check in the amount of $1,080.00 for recording an assignment ($40.00) and the Basic National Fee ($1,040.00).

On 15 April 2005, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) because applicant failed to provide the full U.S. Basic National Fee by thirty months.

On 23 May 2005, applicant filed a petition to withdraw the holding of abandonment.

On 30 May 2006, applicants filed a petition to revive under 37 CFR 1.137(b) along with a check of $1,530.00 for the petition to revive fee and remainder due on the U.S. Basic National Fee.

DISCUSSION

Withdraw the Holding of Abandonment

Applicant claims that a check of $1,080.00 was submitted with the initial filing

which covered the Basic National Fee. As such, the holding of abandonment should be withdrawn.

A review of prior USPTO Fee Schedules show that the U.S. Basic National Fee increased on 01 October 2004 to $1,110.00. Applicant filed the subject application with fees totaling $1,080.00 on 05 October 2004. Thus, the holding of abandonment was proper.

Petition to Revive Under 37 CFR 1.137(b)

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The fees required to enter the national stage changed on 08 December 2004. The required fees are now: the Basic National Fee is $300.00; the Search Fee is $500.00; and the Examination Fee is $200.00 totaling $1,000.00. Applicant has submitted a $40.00 assignment fee, a petition fee of $1,500.00 and other fees totaling $1,070.00. This is sufficient to meet items (1) and (2) of 37 CFR 1.137(b). Applicants made the required statement of an unintentional delay required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to withdraw the holding of abandonment is **DISMISSED**.

Applicants' petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The excess fee of $70.00 will be refunded. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

02 NOV 2007

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Silverbrook Research Pty, Ltd.
393 Darling Street
Balmain, 2041
AUSTRALIA

In re Application of :
SILVERBROOK, et al. :
Application No. 10/510,096 : DECISION ON PETITION
Filed: 09 August 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YU185US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 18 August 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the

petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek A. Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2861 for appropriate action on the amendment filed 18 August 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

for MLF

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/510,096	10/05/2004	2861	1120	YU185NPUS	9	2

CONFIRMATION NO. 5054

CORRECTED FILING RECEIPT

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 11/01/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;
Gregory John Mcavoy, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/AU02/00775 06/14/2002
which is a CON of 10/120,359 04/12/2002 PAT 6,688,719

Foreign Applications

If Required, Foreign Filing License Granted: 10/29/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/510,096**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Thermoelastic inkjet actuator with heat conductive pathways

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

26 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Kia Silverbrook
Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of	
SILVERBROOK	
Application No.: 10/510,097	DECISION ON PETITION
PCT No.: PCT/AU02/01168	
Int. Filing Date: 29 August 2002	UNDER 37 CFR 1.181
Priority Date: 12 April 2002	
Attorney Docket No.: YU169US	
For: SYMMETRICALLY ACTUATED INK EJECTION COMPONENTS FOR AN INK JET PRINTHEAD CHIP	

This is a decision on applicant's "Request to Withdraw Holding of Abandonment" filed on 11 April 2005 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 29 August 2002, applicant filed international application PCT/AU02/01168, which claimed priority of an earlier application filed 12 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 October 2004.

On 05 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by a check in the amount of $1080.00; a declaration executed by the inventor; an Information Disclosure Statement and an assignment document for recording.

On 25 February 2005, applicant was mailed a Notification of Abandonment (Form PCT/DO/EO/909) informing applicant that the application was considered abandoned as to the United States of America for failure to provide the full U.S. Basic National Fee by thirty months from the priority date.

On 11 April 2005, applicant filed the present petition.

DISCUSSION

A review of the application file, as well as, the papers filed by applicant 11 April 2005 finds that applicant filed a check in the amount of $1080.00 on 05 October 2004. In the present case the international search report and international preliminary examination report were prepared by the Australian Patent Office. As of 01 October 2004, the United States Basic National Fee for instances where neither the international search report nor the international preliminary examination report were prepared by the USPTO was $1110.00. Therefore, abandonment of the National stage application was proper.

CONCLUSION

The petition to withdraw holding of abandonment under 37 CFR 1.181 has been considered, however, for the reasons indicated above, the petition stands **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181." No additional fee is required.

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

14 JUN 2005

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Mr. Kia Silverbrook
Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of :
SILVERBROOK :
Application No.: 10/510,097 : DECISION ON PETITION
PCT No.: PCT/AU02/01168 :
Int. Filing Date: 29 August 2002 : UNDER 37 CFR 1.137(b)
Priority Date: 12 April 2002 :
Attorney Docket No.: YU169US :
For: SYMMETRICALLY ACTUATED INK :
EJECTION COMPONENTS FOR AN INK :
JET PRINTHEAD CHIP :

The petition to revive under 37 CFR 1.137(b) filed 16 May 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Applicant also seeks an explanation as to the fees involved in the abandonment of the application. As previously stated in the decision mailed 26 April 2005, as of 01 October 2004, the United States Basic National Fee for instances where neither the international search report nor the international preliminary examination report were prepared by the USPTO was $1110.00. Notice of the fee increase was published in the Federal Register on 27 August 2004 and the Official Gazette of the USPTO on 31 August 2004. As applicant did not pay the full amount before expiration of thirty months on 12 October 2004 the application became abandoned. In the meantime, the USPTO has again revised the fees for entering the National Stage in the United States as shown by applicant's exhibit a copy of the USPTO form PTO-1390 as revised February, 2005.

The application has an international filing date of 29 August 2002 under 35 U.S.C. 363 and will be given a date of **16 May 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

30 SEP 2005

#4

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, AUSTRALIA 2041

In re Application of	
SILVERBROOK, Kia	
Application No.: 10/510,098	DECISION ON
PCT No.: PCT/AU02/01121	
Int. Filing Date: 21 August 2002	PETITION
Priority Date: 28 June 2002	
Attorney Docket No.: MJ87US	UNDER 37 CFR 1.181
For: INK JET NOZZLE ASSEMBLY INCLUDING DISPLACEABLE INK PUSHER	

This decision is in response to applicant's Petition to Withdraw Holding of Abandonment," filed on 15 April 2005. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 21 August 2002, applicant filed international application PCT/AU02/01121, claiming a priority date of 28 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 January 2004. The deadline for entry into the national stage in the United States was thirty months from the priority date, 28 December 2004.

On 05 October 2004, applicant submitted a transmittal letter for entry into the national phase in the United States accompanied by a declaration of the inventor and a check for $1080.

On 21 March 2005, the Office mailed Notification of Abandonment indicating that applicant failed to pay the basic national fee by thirty months.

On 15 April 2005, applicant submitted a request to withdraw the holding of abandonment indicating that they had included a check for $1080 with their submission.

DISCUSSION

On 05 October 2004, the basic national fee in the United States was $1110, when the USPTO was neither the IPEA nor the ISA. However, applicant's fees were not due until 28 December 2004. On 08 December 2004, USPTO's fee structure changed. The applicable fees were: basic national fee $300, examination fee $200 and search fee $400. The total fees required were $900.

As such, applicants paid the basic national fee, along with the others mentioned, prior to thirty months from the priority date. The notification of abandonment issued in error.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 21 March 2005 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The application has a date of 08 December 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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Paper No.

Kia Silverbrook
Silverbrook Research Pty Ltd.
393 Darling Street
Balmain, NSW 2041 AU AUSTRALIA

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/510,098	:	DECISION ON PETITION
Filed: December 8, 2004	:	PURSUANT TO
Attorney Docket Number: MJ87US	:	37 C.F.R. § 1.137(a)
Title: INK JET NOZZLE ASSEMBLY	:	
INCLUDING DISPLACEABLE INK	:	
PUSHER	:	

This is a decision on the petition filed August 12, 2007, pursuant to 37 C.F.R. § 1.137(a) [1], to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed September 21, 2006, which set a period for

---

1 A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

reply of one month. No response was received, and no extensions of time under 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 22, 2006.

With this petition, Petitioner has set forth that the mailing was not received. The electronic file has been reviewed, and it is clear that the Office communication was returned to the Office by the United States Postal Service on September 27, 2006. Although the envelope does not appear to contain a stamp that indicates the reason that it was returned, it has been noted by the undersigned that "NSW" was omitted from the address. Office records have been updated accordingly. As such, Petitioner has established that the entire period of delay was unavoidable.

Moreover, Petitioner has submitted the petition fee and a response to the notice of non-compliant amendment.

Petitioner has met requirements (1) - (3) of Rule 1.137(a). The fourth requirement is not applicable.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the notice of non-compliant amendment, which was received with this petition, can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

09 MAY 2005

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of UNDERSTEIN Application No.: 10/510,123 PCT No.: PCT/US03/06626 Int. Filing: 06 March 2003 Priority Date: 07 March 2002 Attorney Docket No.: 2802-34 For: MULTI-DEPOSITORY FINANCIAL TRANSACTIONS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 04 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the U.S. national phase request for examination from the due date for filing until the filing of a grantable petition pursuant to Rule 137(b) was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $395 has been provided. The required petition fee of $685 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 04 October 2004.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

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Husch Blackwell Sanders, LLP
Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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AUG 0 8 2008

In re Application of
Jacques Marty
Application No. 10/510,127
Filed: October 4, 2004
Attorney Docket No. 92940

ON PETITION

This is a decision in response to the petition, filed April 28, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to an Office communication mailed August 7, 2007. A Notice of Abandonment was mailed on April 1, 2008. In response, on April 28, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on October 22, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2612 for consideration of the amendment filed April 28, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

22 JUN 2006

#6

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Mr. K Silverbrook
Managing Director
Silverbrook Research Pty Ltd
393 Darling Strret
Balmain, NSW 2041
AUSTRALIA

In re Application of	:	DECISION ON
Kia SILVERBROOK	:	
Application No.: 10/510,151	:	
PCT No.: PCT/AU02/00764	:	
Int. Filing Date: 13 June 2002	:	
Priority Date: 12 April 2002	:	PETITION UNDER
Attorney's Docket No.: YU181US	:	
For: PERMANENTLY FIREPROOF FLAME GUARD	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 05 October 2004.

BACKGROUND

On 13 June 2002, this international application was filed, claiming an earliest priority date of 12 April 2002. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 12 October 2004.

On 05 October 2004, applicant filed the Transmittal letter for entry into the national stage in the United States, which was accompanied, inter alia, an executed declaration but no basic national filing fee was filed at such time.

On 14 April 2005, the United States Designated/Elected Office mailed a Notification of Insufficient Basic National Fee Required And/Or Missing Copy of International Application Under 35 U.S.C. 371 and 37 CFR 1.495 indicating that the basic national fee paid to date is $0.00. The Notice also indicated that if the basic national fee to enter the national stage in the United States under 35 U.S.C. 371 must be paid 30 months from the priority (37 CFR 1.495(b)(2)).

On 30 May 2006, applicant filed the instant petition under 37 CFR 1.137(b) accompanied by the basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1),(c)(2), and (c)(4) date of this application is **30 May 2006.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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Kia Silverbrook
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041 Australia

In re Application of	:	
Silverbrook.	:	
US Application No.: 10/510,152	:	
PCT Application No.: PCT/AU02/01164	:	DECISION ON
Int. Filing Date: 29 August 2002	:	PETITION UNDER
Priority Date: 12 April 2002	:	37 CFR 1.181
Attorney's File Reference: YU175US	:	
For: PUSHER ACTUATION IN A PRINTHEAD CHIP FOR AN INKJET PRINTHEAD	:	

This is a decision on applicants' petition to "Withdraw Holding of Abandonment" filed on 27 June 2005.

BACKGROUND

On 05 October 2004, applicants filed a submission under 35 USC 371 to enter the U.S. national phase.

On 25 May 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned with respect to the national stage in the United States for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 27 June 2005, applicants filed the present petition.

DISCUSSION

A review of the application file reveals that applicants filed Form PTO-1390 with fees listed as $1,040 for the Basic National Fee and $40 for the fee to record assignment. The Basic National Fee that was required was $1,110. Thus, applicant failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Applicant may wish to consider filing a petition to revive the application under 37 CFR 1.137. This suggestion should not be construed to mean that such a petition, if filed, would necessarily be granted. Applicant is cautioned that any intentional delay in filing a grantable petition under 37 CFR 1.137 will foreclose revival, see MPEP 711.03(c).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia, 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Aileen Felton
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Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
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P.O. Box 1450
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14 JUL 2006

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Kia Silverbrook
Silverbrook Research Pty Ltd
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Balmain, NSW 2041
Australia

In re Application of
SILVERBROOK, Kia
Application No.: 10/510,152
PCT No.: PCT/AU02/01164
Int. Filing Date: 29 August 2002
Priority Date: 12 April 2002
Attorney Docket No.: YU175US
For: PUSHER ACTUATION IN A PRINTHEAD CHIP FOR AN INKJET PRINTHEAD

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the required reply and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
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11 DEC 2006

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

In re Application of :
KIA SILVERBROOK :
Application No. 10/510,153 : DECISION ON PETITION
Filed: 05 October 2004 : UNDER 37 CFR 1.181
Attorney Docket No. YU176NPUS :

This is a decision on applicants' "Letter" requesting withdrawing of the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on 27 June 2005, in response to the 31 May 2005 Notification of Abandonment. No petition fee is required.

On 05 October 2004, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, a check for the basic national fee.

On 31 May 2005, a Notification of Abandonment was erroneously mailed to applicants indicating that the basic national fee had not been provided by the thirty month deadline.

On 27 June 2005, applicants filed the instant request to withdraw the holding of abandonment along with copies of the originally filed papers and an affidavit of Leonie Frances News, Patent Administrator of Silverbrook Research Pty. Ltd.

A review of the application file reveals that applicant did pay the basic national fee ($1040) on 05 October 2004. Thus, the Notification of Abandonment mailed on 31 May 2005 was issued erroneously and is hereby vacated.

The petition to withdraw the holding of abandonment filed on 27 June 2005 is **GRANTED**. The Notification of Abandonment mailed on 31 May 2005 was issued erroneously and is hereby **VACATED**.

The Notification of Acceptance mailed on 17 January 2006 remains in effect.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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Facsimile: (571)273-0459

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OFFICE OF PETITIONS

In re Application of
KIA SILVERBROOK
Application No. 10/510,153
Filed: 05 October 2004
Attorney Docket No. YU176NPUS

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 7 August 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(I) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the

petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional applications satisfy the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at 571/272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

20 MAR 2006

#4

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Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
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AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/510,154	:	DECISION ON PETITION TO
PCT No.: PCT/AU02/01169	:	WITHDRAW HOLDING OF
International Filing Date: 29 August 2002	:	ABANDONMENT
Priority Date: 12 April 2002	:	(37 CFR 1.181)
Attorney's Docket No.: YU174US	:	
For: DISCRETE AIR AND NOZZLE CHAMBERS IN A PRINTHEAD FOR AN INKJET PRINTHEAD	:	

This decision is issued in response to applicant's petition to withdraw the holding of abandonment, filed 27 June 2005, treated herein under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 29 August 2002, applicant filed international application number PCT/AU02/01169. The international application claimed a priority date of 12 April 2002 and designated the United States. On 23 October 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). Payment of the full basic national fee was required before the expiration of thirty months from the priority date, i.e., 12 October 2004.

On 05 October 2004, applicant filed a transmittal letter requesting entry into the national stage in the United States. The transmittal letter was accompanied by, among other materials, a check in the amount of $1,080.

On 24 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. basic national fee before the expiration of the thirty month deadline.

On 27 June 2005, applicant filed the petition considered herein. The petition seeks withdrawal of the holding of abandonment based on applicant's inclusion of the $1,080 fee payment in the 05 October 2004 submission.

DISCUSSION

The materials initiating the present national stage application were filed on 05 October 2004. These materials included a check in the amount of $1,080 ($1,040 for the U.S. basic national fee and $40 as the fee for recording an assignment). However, as of the filing date of the national stage papers, the applicable U.S. basic national fee was $1,110. Applicant's fee payment was therefore not sufficient to meet the full U.S. basic national fee.

Pursuant to 37 CFR 1.495(h), an international application becomes abandoned with respect to the U.S. if the full basic national fee is not submitted prior to the expiration of thirty months from the priority date. Here, because applicant's $1,080 fee payment did not include payment of the full $1,110 U.S. basic national fee, the application was abandoned as of midnight on 12 October 2004.

CONCLUSION

Based on the above, applicant's petition for withdrawal of the holding of abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this decision.

In the alternative, applicant might consider (if factually appropriate) filing a petition for revival of an international application abandoned unintentionally, pursuant to 37 CFR 1.137(b).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Richard M. Ross
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Office of PCT Legal Administration
Telephone: (571) 272-3296
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16 JUN 2006

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MANAGING DIRECTOR
SILVERBROOK RESEARCH PTY LTD
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BALMAIN, NSW 2041
AUSTRALIA

In re Application of:
SILVERBROOK, Kia
U.S. Application No.: 10/510,154
PCT No.: PCT/AU02/01169
International Filing Date: 29 August 2002
Priority Date: 12 April 2002
Atty Docket No.: YU174US
For: DISCRERTE AIR AND NOZZLE CHAMBERS IN A PRINTHEAD FOR AN INKJET PRINTHEAD

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 07 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that applicant had previously filed an executed declaration in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 08 December 2004.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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OFFICE OF PETITIONS

In re Application of
NORDMARK, et al.
Application No. 10/510,167
Filed: July 18, 2005
Attorney Docket No. 77441

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Leaving the employ of Customer No. 26288", do not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ALBIHNS STOCKHOLM AB
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SE-114 85 STOCKHOLM; SWEDEN
STOCKHOLM SE SWEDEN

In re Application of
NORDMARK, et al.
Application No. 10/510,167
Filed: July 18, 2005
Attorney Docket No. 77441

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 10, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **YOUNG AND THOMPSON**
745 S 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Stephane Ramare	: DECISION ON REQUEST FOR
Patent Number	: 7569068	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/510,178	: OF WYETH
Filed	: 06/30/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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January 14, 2009

Scott Tobias
Darby & Darby P.C.
1191 Second Avenue
Seatac, WA 98101-3404

Patent No.: 7,434,490 B2
Application No.: 10/510,185
Inventor(s): Ryoji Hayashi
Issued: October 14, 2008
Title: **TURNING DRIVE APPARATUS FOR MODEL, AND SLIP GEAR APPARATUS**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,479,055 B2
Serial No. : 10/510,187
Inventor(s) : Saeki
Issued : January 20, 2009
Title : **RUNNING DEVICE FOR MODEL, AND REMOTE CONTROL TOY HAVING THE RUNNING DEVICE**
Docket No. : **09867/0201849-US0**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

ecw

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P.O. BOX 770
Church Street Station
New York NY 10008-0770

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AUG 26 2009

OFFICE OF PETITIONS

In re Patent No. 7,479,055 :
Issue Date: January 20, 2009 :
Application No. 10/510,187 : DECISION ON PETITION
Filed: November 23, 2004 :
Attorney Docket No. 09867/0201849-US0 :

This is a decision on the Renewed Petition Under 37 CFR 1.183 and Request For Certificate of Correction Pursuant to 37 CFR 1.322, filed April 29, 2009, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the name of assignee. The Request has been treated as a Petition under 37 CFR 3.81. A completed Certificate of Correction Form (PTO/SB/44) accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL-85B and that such error was inadvertently included on form PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to correct the name of the assignee identified thereon from "Konami Corporation" to:

-Konami Digital Entertainment Co., Ltd.-

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied by a Certificate of Correction. As such, the requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) have been previously submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, as the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,479,055.

Brian W. Brown
Petitions Examiner
Office of Petitions

14 JUN 2006

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Alan W. Young
Young Law Firm, PC
4370 Alpine Road, Suite 106
Portola Valley, CA 94028

In re Application of	:	
Emberton *et al*	:	
Application No.: 10/510, 196	:	
PCT No.: PCT/US03/10099	:	
Int. Filing Date: 29 March 2003	:	DECISION
Priority Date: 29 March 2002	:	
Atty. Docket No.: ORCL5800	:	
For: METHODS AND SYSTEMS FOR NON-INTERRUPTING NOTIFICATIONS	:	

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(a)" filed in the U.S. Patent and Trademark Office (USPTO) on 21 June 2005, which requests that the application be accepted without the signature of inventor Emberton. The petition is DISMISSED as moot.

A review of the application file, and specifically the present submission, reveals that applicants have submitted a declaration executed by Mr. Emberton which, contrary to applicants' assertion, does adequately identify the application to which it is directed (see MPEP 602, Subsection VI. IDENTIFICATION OF APPLICATION). The petition fee will be refunded to counsel's Deposit Account No. 15-0635.

The review of the application file also reveals that, with the filing of the present submission, the application now satisfies the requirements under 35 U.S.C. 371 for entry into the national stage. The application has an international filing date of 29 March 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **21 June 2005**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

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DAVID AND RAYMOND PATENT FIRM
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK, CA 91754

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OFFICE OF PETITIONS

In re Application of :
Weibin Chen :
Application No. 10/510,198 : DECISION ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. USP2649C-DRSH :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 7, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was timely filed. Accordingly, the date of abandonment of this application is November 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2838 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

20 SEP 2005

#6

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United States Patent and Trademark Office
Washington, D.C. 20231
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Mr. Kia Silverbrook
Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of	
SILVERBROOK	
Application No.: 10/510,207	DECISION ON PETITION
PCT No.: PCT/AU02/01163	
Int. Filing Date: 29 August 2002	UNDER 37 CFR 1.137(b)
Priority Date: 28 June 2002	
Attorney Docket No.: MJ92US	
For: INK JET PRINTHEAD CHIP WITH PREDETERMINED MICRO-ELECTRO-MECHANICAL SYSTEMS HEIGHT	

The petition to revive under 37 CFR 1.137(b) filed 21 July 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

On 05 October 2004, the United States Basic National Fee for instances where neither the international search report nor the international preliminary examination report were prepared by the USPTO was $1110.00. As applicant did not pay the full amount before expiration of thirty months on 28 November 2004 the application became abandoned. The USPTO again revised the fees for entering the National Stage in the United States on 08 December 2004. A review of the application file reveals that applicant's $1040.00 payment was sufficient to satisfy this new U.S. Basic National fee on 08 December 2004. Therefore the requirements of 37 CFR 1.137(b) have been satisfied and the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 29 August 2002 under 35 U.S.C. 363 and will be given a date of **08 December 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

12 DEC 2006

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of NISHIKAWA, Kazuo, et al. Application No.: 10/510,210 PCT No.: PCT/IB03/01250 Int. Filing Date: 07 April 2003 Priority Date: 05 April 2002 Attorney Docket No.: 4978-0101PUS1 For: METHOD OF ESTIMATING ELIMINATION OF MICROORGANISMS AND APPARATUS FOR ESTIMATING ELIMINATION OF MICROORGANISMS	DECISION ON PETITION UNDER 37 CFR 1.43

This is a decision on applicants' "Petition Under 37 CFR 1.43," filed in the United States Patent and Trademark Office (USPTO) on 17 November 2006.

BACKGROUND

On 27 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 17 November 2006, applicants filed this petition under 37 CFR 1.43.

DISCUSSION

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 17 November 2006 submission indicates that Masato AOKI is legally incapacitated. Under 37 CFR 1.43, in the event of legal incapacitation of an inventor, "the legal representative ... of such inventor may make the necessary oath or declaration, and apply for and obtain the patent." The 17 November 2006 declaration identifies Miyuki AOKI as the Legal Representative and provides the legal representative's residence, citizenship and address in addition to the incapacitated inventor's residence, citizenship and address. The 17 November 2006 declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants' request for status under 37 CFR 1.43 is **GRANTED**.

The application has a date of 17 November 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

20 MAR 2006

#6

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FALLS CHURCH VA 22040-0747

In re Application of	:	
NISHIKAWA, Kazuo, et al.	:	
Application No.: 10/510,210	:	
PCT No.: PCT/IB03/01250	:	DECISION ON
Int. Filing Date: 07 April 2003	:	
Priority Date: 05 April 2002	:	PETITION UNDER
Attorney Docket No.: 4978-0101PUS1	:	
For: METHOD OF ESTIMATING	:	37 CFR 1.47(a)
ELIMINATION OF MICROORGANISMS	:	
AND APPARATUS FOR ESTIMATING	:	
ELIMINATION OF MICROORGANISMS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 26 September 2005.

BACKGROUND

On 07 April 2003, applicants filed international application PCT/IB03/01250. A copy of the international application was transmitted to the Office on 16 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 October 2004.

On 05 October 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 February 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 26 September 2005, applicants submitted the petition under 37 CFR 1.47(a) and the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (4) have been satisfied. The petition fee has been paid. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

Item (2) has not been satisfied. Applicants requested that Mr. Aoki sign a declaration by sending messages through his place of employment. A refusal by conduct requires presentation with a complete copy of the application papers, including the declaration and a subsequent refusal. Applicants have not established either that the proper papers were supplied or that the papers were received by Mr. Aoki. Applicants indicate that Mr. Aoki is sick and is not at work. Ordinarily, the application papers should be sent to the last known residence of the inventor. Additionally, copies of documentary evidence including emails, translations and return mail receipts should be submitted.

Further, applicants' statements about the health of Mr. Aoki and applicants' indication that they also sought the signature of a relative raise 37 CFR 1.43 concerns. Should Mr. Aoki be legally incapacitated, his legal representative may sign the declaration on his behalf. A relative who is not his legal representative would not be sufficient. If Mr. Aoki is not legally incapacitated, he must sign.

Item (3) has not been satisfied. Applicants have supplied a business address for Mr. Aoki. Ordinarily, the last known address of the inventor is the last known residence. MPEP 409.03(e).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a). No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

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H6

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of
NISHIKAWA, Kazuo, et al.
Application No.: 10/510,210
PCT No.: PCT/IB03/01250
Int. Filing Date: 07 April 2003
Priority Date: 05 April 2002
Attorney Docket No.: 4978-0101PUS1
For: METHOD OF ESTIMATING ELIMINATION OF MICROORGANISMS AND APPARATUS FOR ESTIMATING ELIMINATION OF MICROORGANISMS

DECISION ON

PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(A)," filed in the United States Patent and Trademark Office (USPTO) on 19 May 2006.

BACKGROUND

On 20 March 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 19 May 2006, applicants submitted a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (4) were previously satisfied.

Item (2) has not been satisfied. Applicants requested that Mr. Aoki sign a declaration by sending messages through his place of employment. A refusal by conduct requires presentation with a complete copy of the application papers, including the declaration and a subsequent refusal. MPEP 409.03(d). Applicants indicate only that the declaration and assignment documents were submitted. These documents do not constitute a complete copy of the application papers.

Further, applicants have not established that the proper papers were received by Mr. Aoki. Applicants indicate that Mr. Aoki is sick and is not at work. Ordinarily, the application papers should be sent to the last known residence of the inventor. Mr. Aoki's employer appears to be cooperating, so Mr. Aoki's employer could present a complete copy of the application papers to the inventor and provide the necessary firsthand declaration and supporting documentation.

As for Mr. Aoki's health, the USPTO does not require a medical certificate of incapacity. See MPEP 409.01(b). If someone or multiple people are empowered under law to act as Mr. Aoki's legal representative, that person or people may sign the declaration on his behalf, indicate that he, she or they are the legal representative, state their addresses, citizenships, mailing addresses and the information that the inventor would be required to state. See 37 CFR 1.497(a)-(b). A relative who is not his legal representative would not be sufficient. If Mr. Aoki is not legally incapacitated, he must sign. As indicated above, if Mr. Aoki were presented with a complete copy of the application papers and the declaration was not signed and returned within a reasonable period of time, his conduct can be construed as a refusal to sign.

Item (3) has not been satisfied. Applicants have supplied a business address for Mr. Aoki. Ordinarily, the last known address of the inventor is the last known residence. MPEP 409.03(e). Applicants do not have a home address for Mr. Aoki, but applicants have not indicated that Mr. Aoki customarily receives his mail at the business address. Applicants have not demonstrated a diligent effort to locate a home address for Mr. Aoki., such as copies of internet searches.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a). No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
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Telephone: (571) 272-3292
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12 DEC 2006

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In re Application of
NISHIKAWA, Kazuo, et al.
Application No.: 10/510,210
PCT No.: PCT/IB03/01250
Int. Filing Date: 07 April 2003
Priority Date: 05 April 2002
Attorney Docket No.: 4978-0101PUS1
For: METHOD OF ESTIMATING ELIMINATION OF MICROORGANISMS AND APPARATUS FOR ESTIMATING ELIMINATION OF MICROORGANISMS

DECISION ON

PETITION UNDER

37 CFR 1.43

This is a decision on applicants' "Petition Under 37 CFR 1.43," filed in the United States Patent and Trademark Office (USPTO) on 17 November 2006.

BACKGROUND

On 27 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 17 November 2006, applicants filed this petition under 37 CFR 1.43.

DISCUSSION

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 17 November 2006 submission indicates that Masato AOKI is legally incapacitated. Under 37 CFR 1.43, in the event of legal incapacitation of an inventor, "the legal representative ... of such inventor may make the necessary oath or declaration, and apply for and obtain the patent." The 17 November 2006 declaration identifies Miyuki AOKI as the Legal Representative and provides the legal representative's residence, citizenship and address in addition to the incapacitated inventor's residence, citizenship and address. The 17 November 2006 declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants' request for status under 37 CFR 1.43 is **GRANTED**.

The application has a date of 17 November 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

03 MAR 2005

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of PIANA et al.
Application No.: 10/510,235
PCT Application No.: PCT/FR03/00683
Int. Filing Date: 04 March 2003
Priority Date Claimed: 04 March 2002
Attorney Docket No.: P25925
For: VACUUM MASSAGE DEVICE COMPRISING THE AFFUSION OF WATER OR ANY OTHER SUITABLE LIQUID

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 13 October 2004 is GRANTED.

BACKGROUND

On 04 March 2003, applicants filed international application PCT/FR03/00683. The international application claims a priority date of 04 March 2002 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 04 September 2004. The application became abandoned at midnight 04 September 2004 for failure to pay the basic national fee.

On 13 October 2004, applicants filed the instant petition for revival accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), an executed declaration as required by 35 U.S.C. 371(c)(4) and the petition fee of $1370.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

Applicant's statement in the petition that "the entire delay in entering the national stage was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

The executed declaration submitted with the instant petition satisfies the requirements under 35 U.S.C. 371(c)(4). The basic national fee submitted with the instant petition satisfies the requirements under 35 U.S.C. 371(c)(1). The copy of the international application submitted with the instant petition does not satisfy the requirements under 35 U.S.C. 371(c)(2) because a translation into English was not included.

Upon review of all the papers in the instant application, a translation of international application into English was submitted, *inter alia*, on 11 January 2005.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to the National Stage in the United States of America.

Applicants have satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 04 March 2003 under 35 U.S.C. 363 and a date of 11 January 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Nathan Newhouse
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30 OCT 2006

GREENBLUM & BERNSTEIN, P.L.C.
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In re Application of
PIANA *et al*
U.S. Application No.: 10/510,235
PCT No.: PCT/FR03/000683
Int. Filing Date: 04 March 2003
Priority Date: 04 March 2002
Attorney Docket No.: P25925
For: VACUUM MASSAGE DEVICE COMPRISING THE AFFUSION OF WATER OR ANY OTHER SUITABLE LIQUID

DECISION

This is a decision on the "Renewed Request for Refund" filed on 03 October 2006.

BACKGROUND

On 13 October 2004, applicants filed papers for entry into the national stage of PCT/FR03/000683 which included the large entity fees for a national stage application and a large entity petition to revive fee entity totaling $2,320.00.

On 11 January 2005, applicants filed several papers including a document titled "Statement of Status as Small Entity."

On 07 March 2005, a refund of $475.00 was credited to counsel's Deposit Account No. 19-0089.

On 03 October 2006, a renewed request for refund of the remaining $685.00 in fees paid was filed.

DISCUSSION

In the papers filed 11 January 2005, applicants requested small entity status and a refund of one-half the fees paid. 37 CFR 1.28 (a) states, in part that:

> A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of

the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

Applicants submitted the change in status to a small entity within the three-month time period required as the transmittal letter was filed 13 October 2004. A partial refund of $475.00 was previously paid.

Applicants are also entitled to a credit of $685.00 for the petition to revive fee of $1,370.00.

CONCLUSION

Applicants' request for a refund pursuant to 37 CFR 1.28(a) is **GRANTED**.

Counsel's Deposit Account No. 10-0435 has been credited $685.00 as requested.

The above-captioned application will be forwarded to the Tech Center 3700 for further processing.

James Thomson
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#6

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27 JAN 2006

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In re Application of:
Endo, Tamio, et al.
U.S. Application No.: 10/510,244
PCT No.: PCT/JP03/04750
International Filing Date: 15 April 2003
Priority Date: 16 April 2002
Attorney's Docket No.: 040473
For: RESIST FILM REMOVING APPARATUS ... AND METHOD OF REMOVING ORGANIC MATTER

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 19 September 2005. Applicant has submitted $130 as the petition fee, and included the authorization to charge Deposit Account No. 01-2340 for additional fees. Because the fee for a petition under 37 CFR 1.47(a) is $200, Deposit Account No. 01-2340 will be charged the additional $70 required to complete the petition fee.

BACKGROUND

On 15 April 2003, applicants filed international application PCT/JP03/04750 which claimed a priority date of 16 April 2002 and which designated the United States. On 23 October 2003, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 16 October 2004.

On 15 October 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 17 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 was required.

On 19 September 2005, applicants filed a response to the Notification Of Missing Requirements (with required extension fee) which included a declaration executed by six of the seven inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks

acceptance of the application without the signature of inventor Atsushi SATO, whom applicants assert cannot be located after diligent effort.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Here, applicants have provided the required petition fee, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Applicants have filed a declaration executed by six of the seven inventors and containing an unsigned signature block for the nonsigning inventor Atsushi SATO. Accordingly, if the declaration was otherwise acceptable, the declaration could be accepted as having been signed by all the inventors on their own behalf and on behalf of the nonsigning inventor. However, the Japanese/English language declaration used by applicants is not a form provided by the USPTO, and applicants have not provided a certification of translation, as required (see 37 CFR 1.69(b)). Until a certification of the translation is provided, the declaration cannot be accepted. Accordingly, on the present record, item (3) is not satisfied.

Regarding item (4), the petition asserts that the assignee cannot be located after diligent effort. With respect to such circumstances, MPEP section 409.03(d) states the following:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. ...
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or

> reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

In the present petition, applicant has not provided the required showing that the nonsigning inventor cannot be located after diligent effort. Specifically, it is not clear that the person providing the "Declaration In Support Of Petition Under 37 CFR 1.47(a)" (Takayoshi KOKUBIN) is the person who took the actions referred to therein; it is therefore unclear whether Takayoshi KOKUBIN has first hand knowledge of these actions, as required by the MPEP. In addition, applicant has not provided any documentary evidence of the efforts made to locate the inventor (for example, the petition refers to a 27 September 2004 mailing to the inventor that was returned, and it states that a copy of this mailing is attached; however, no such materials are present in the application file). In addition, it does not appear that applicants have performed an internet search as part of the effort to located the nonsigning inventor.

Before item (4) can be considered satisfied, applicants must provide the required firsthand evidence (with documentary support) demonstrating that a diligent effort has been made to locate the nonsigning inventor. A diligent effort to locate the inventor should include an internet search, and the results of such a search should be included in any subsequent submission herein.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (3) and (4) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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31 AUG 2006

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ARMSTRONG, KRATZ, QUINTOS,
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Washington, D.C. 20006

In re Application of:	:	
Endo, Tamio, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/510,244	:	PETITION UNDER
PCT No.: PCT/JP03/04750	:	37 CFR 1.47(a)
International Filing Date: 15 April 2003	:	
Priority Date: 16 April 2002	:	
Attorney's Docket No.: 040473	:	
For: RESIST FILM REMOVING	:	
APPARATUS ... AND METHOD OF	:	
REMOVING ORGANIC MATTER	:	

In a decision mailed by this Office on 27 January 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide: (1) an acceptable declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (2) adequate factual proof that the inventor cannot be reached after diligent effort.

On 21 April 2006, applicants filed the "Renewed Petition Under 37 CFR 1.47(a)" (with required one-month extension fee). The renewed petition included a revised declaration, in English, executed by six of the seven inventors and containing an unsigned signature block for the non-signing inventor. This revised declaration satisfies the declaration requirement for a grantable petition.

With respect to the remaining element of a grantable petition (factual proof that the non-signing inventor cannot be located after diligent effort), the renewed petition includes a slightly revised "Declaration In Support Of Petition Under 37 CFR 1.47(a)" from Takayoshi KOKUBIN; the only difference between this statement and the statement submitted with the original petition is the addition of the following: "An Internet search was performed in an attempt to find him." The statement is accompanied by supporting documentation, including a copy of an email and mailing which were apparently directed to the non-signing inventor, as well as the results of the Internet search performed to locate the inventor. The reference to an Internet search and the inclusion of supporting documents addresses two of the defects raised in the previous decision; however, applicants have failed to address the issue of whether Takayoshi KOKUBIN has the required firsthand knowledge with respect to the facts set forth in his statement.

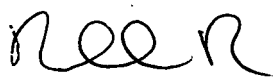
As discussed in the previous decision, the MPEP requires that a person with firsthand knowledge of the efforts made to locate the inventor, that is, the person(s) who undertook such efforts, provide a statement of facts describing these efforts. The revised statement from Takayoshi KOKUBIN does not confirm that he is the person who undertook the actions referred to therein (i.e., attempted to reach the inventor by mail, email, and facsimile, carried out the internet search, contacted the telephone information operator, and made inquiries at the inventor's former place of employ). Applicants must provide a revised statement from Takayoshi KOKUBIN confirming that he is the person who took the described actions or, if such is not the case, applicants must provide a statement of facts from the person(s) who did perform these actions. Until such materials are provided, the final element for a grantable petition remains unsatisfied.

Based on the above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy the final element of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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16 MAY 2008

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In re Application of:
ENDO, Tamia, et al.
U.S. Application No.: 10/510,244
PCT No.: PCT/JP03/04750
International Filing Date: 15 April 2003
Priority Date: 16 April 2002
Atty Docket No.: 040473
For: RESIST FILM REMOVING APPARATUS ... AND METHOD OF REMOVING ORGANIC MATTER

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT (37 CFR 1.181)

This decision is issued in response to the "Request For Withdrawal Of Holding Of Abandonment" filed 03 April 2008, treated herein under 37 CFR 1.181. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the previous decisions mailed herein on 27 January 2006 and 31 August 2006. These decisions dismissed without prejudice applicants' petition under 37 CFR 1.47(a) requesting acceptance of the declaration without the signature of all the applicants. The decision mailed 31 August 2006 provided applicants with an extendable two-month response deadline, and it indicated that the failure to file a timely and proper response would result in abandonment of the application.

Applicants did not file a response to the 31 August 2006 decision during the extendable time period. Accordingly, this application became abandoned at midnight on 31 October 2006.

On 07 February 2008, the USPTO mailed a "Notice of Abandonment" confirming the abandonment of the application.

On 03 April 2008, applicants filed the "Request For Withdrawal Of Holding Of Abandonment" considered herein. The submission asserts that the holding of abandonment should be withdrawn because applicants did not receive the petition decision upon which the abandonment is based.

DISCUSSION

Section 711.03(c)II of the MPEP sets forth the requirements for a grantable petition to demonstrate the failure to receive an Office communication:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact the a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The present submission includes the required statement from the practitioner that the file jacket and docket records of the firm have been searched, and that this search indicates that the petition decision mailed 31 August 2006 was not received.

With respect to the docket records requirement, applicants have provided a copy of counsel's incoming mail log from 31 August 2006 to September 30 2006. However, a mail log of incoming USPTO communications is not sufficient to satisfy the docket records requirement. Rather, as discussed in the MPEP, applicants must provide the full office docket record for all responses due in the USPTO on 31 October 2006, the date on which a response to the petition decision was due.

Based on the above, applicants have not satisfied the requirements for a petition to confirm the failure to receive an Office communication. Accordingly, at the present time it cannot be concluded that the petition decision mailed 31 August 2006 was not received by applicants. Withdrawal of the abandonment is therefore not appropriate at the present time.

Because the application remains abandoned, applicants' supplemental submission with respect to the petition under 37 CFR 1.47(a) has not been considered herein.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice. The application remains abandoned.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include the required docket records, as discussed above and n the MPEP.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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13 AUG 2008

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In re Application of:	
ENDO, Tamia, et al.	DECISION ON RENEWED
U.S. Application No.: 10/510,244	PETITION TO WITHDRAW
PCT No.: PCT/JP03/04750	HOLDING OF ABANDONMENT
International Filing Date: 15 April 2003	AND RENEWED PETITION
Priority Date: 16 April 2002	UNDER 37 CFR 1.47(a)
Atty Docket No.: 040473	
For: RESIST FILM REMOVING APPARATUS ... AND METHOD OF REMOVING ORGANIC MATTER	

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.181" filed 16 July 2008 and the supplemental submission under 37 CFR 1.47(a), filed 03 April 2008, treated as a renewed petition under 37 CFR 1.47(a). No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the previous decisions mailed herein on 27 January 2006, 31 August 2006, and 16 May 2008. The 16 May 2008 decision dismissed without prejudice applicants' petition under 37 CFR 1.181 for withdrawal of the holding of abandonment for failure to satisfy the requirements of a grantable petition. Specifically, applicants' had not provided the required docket records. The decision noted that, because the application remained abandoned, applicants' renewed submission under 37 CFR 1.47(a) had not been considered.

On 16 July 2008, applicants filed the "Renewed Petition Under 37 CFR 1.181" considered herein.

DISCUSSION

1. Renewed Petition For Withdrawal Of Abandonment (37 CFR 1.181)

The renewed petition under 37 CFR 1.181 includes the docket records required pursuant to MPEP section 711.03(c)(I)(A). These materials, in combination with applicants' previous submission, satisfy the requirements for a grantable petition to withdraw the holding of abandonment based on applicants' failure to receive the petition decision mailed herein on 31 August 2006. Withdrawal of the holding of abandonment is therefore appropriate.

2. Renewed Petition Under 37 CFR 1.47(a)

The decision mailed herein on 31 August 2006 dismissed applicants' renewed petition under 37 CFR 1.47(a) for failure to provide an adequate showing that the non-signing inventor could not be located after diligent effort. Specifically, applicants had not provided an acceptable showing that the statement submitted regarding efforts to locate the inventor was made with firsthand knowledge of such efforts, as required.

On 03 April 2008, applicants supplemented the previous petition with a revised "Declaration In Support Of Petition Under 37 CFR 1.47(a)" executed by Takayoshi KOKUBUN. This statement includes a statement that Mr. KOKUBUN "has first hand knowledge with respect to the facts set forth in this Declaration," that is, with respect to the specific efforts made to locate the non-signing inventor. This revised statement, in combination with the previously filed materials, provides an acceptable showing that the non-signing inventor cannot be located after diligent effort. Applicants have therefore now satisfied the final requirement for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

The renewed petition for withdrawal of the holding of abandonment is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/909) mailed 07 February 2008, based as it was on applicants' failure to respond to the decision mailed 31 August 2006 that applicants did not receive, is appropriately **VACATED**.

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of non-signing inventor Atsushi SATO.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 April 2006.

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13 AUG 2008

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Mr. Atsushi SATO
1-18-208
Kouya 2-chome
Ichikawa-shi, Chiba 272-0013
JAPAN

In re Application of: ENDO, Tamia, et al.
U.S. Application No.: 10/510,244
PCT No.: PCT/JP03/04750
International Filing Date: 15 April 2003
Priority Date: 16 April 2002
Atty Docket No.: 040473
For: RESIST FILM REMOVING APPARATUS ... AND METHOD OF REMOVING ORGANIC MATTER

Dear Mr. SATO:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Counsel Of Record:
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21 MAY 2007

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Washington, DC 20006

In re Application of :
ENDO *et al* :
U.S. Application No.: 10/510,245 :
PCT No.: PCT/JP03/04751 :
Int. Filing Date: 15 April 2003 : **DECISION**
Priority Date: 16 April 2002 :
Attorney Docket No.: 040474 :
For: RESIST REMOVING APPARATUS :
AND METHOD OF MOVING RESIST :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 28 June 2005.

BACKGROUND

On 04 April 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 28 June 2005, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a one-month extension; a declaration signed by two of the three named inventors; a $130.00 petition fee; and a statement by Mr. Kokubun.

On 19 July 2005, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements is 28 June 2005.

On 12 October 2006, a request for status was mailed.

DISCUSSION

Applicants claim that they have been unable to locate Mr. Atsushi Sato and filed the petition under 37 CFR 1.47(a) in response to the Form PCT/DO/EO/905 mailed 04 April 2005. A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or

declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors. Applicants completed items (1) and (3) with this petition.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to $200.00 on 08 December 2004. Petitioners submitted a $130.00 petition fee on 28 June 2005. The $70.00 difference will be charged to Deposit Account No. 01-2340 as authorized. Item (1) of 37 CFR 1.47(a) is complete

With regards to item (3), the last known address of co-inventor Atsushi Sato is listed as:

1-18-208, Kouya 2-chome,
Ichikawa-shi, Chiba272-0013
Japan

Regarding item (2) of 37 CFR 1.47(a), section 409.03(d) of the MPEP discusses situations where an inventor cannot be reached and states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, applicants submitted a statement of facts by Mr. Kokubun who claims that the nonsigning inventor cannot be located. Mr. Kokubun states that a letter sent to the last known address of the nonsigning inventor was returned as being undeliverable. Moreover, attempts were made to contact Mr. Sato by telephone, email and facsimile to no avail. Finally, an inquiry was made at the last known work office was made. Petitioners said that they found out that Mr. Sato had retired and no one at his office had useful information to locate him.

This evidence is insufficient to show that a "diligent effort" was made to locate the nonsigning inventor. There is no evidence that petitioners attempted to locate Mr. Sato using the internet or a telephone directory. These efforts are not extraordinary

and should be made to demonstrate that a diligent effort was made to locate the nonsigning joint inventor. Moreover, copies of the items mailed 27 September 2004 were not included in the petition despite the claim in paragraph 3 of the declaration by Mr. Kokubun. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached must be submitted with any renewed petition.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by three of the four co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, mailing address and citizenship of all three inventors are recorded on the declaration as required.

However, the declaration contains foreign language text, but it is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69. As such, the declaration cannot be accepted and item (4) of 37 CFR 1.47(a) is also not satisfied.

CONCLUSION

For the reasons noted above, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 19 July 2005 were sent in error and hereby **VACATED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor

10/510,245

Office of PCT Legal Administration

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02 AUG 2007

23850
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1725 K Street, NW
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Washington, DC 20006

In re Application of :
ENDO *et al* :
U.S. Application No.: 10/510,245 :
PCT No.: PCT/JP03/04751 :
Int. Filing Date: 15 April 2003 : **DECISION**
Priority Date: 16 April 2002 :
Attorney Docket No.: 040474 :
For: RESIST REMOVING APPARATUS :
AND METHOD OF MOVING RESIST :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 23 July 2007.

BACKGROUND

On 21 May 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 23 July 2007, a renewed petition under 37 CFR 1.47(a) was filed.

DISCUSSION

Applicants have been unable to locate co-inventor, Mr. Atsushi Sato and filed the renewed petition under 37 CFR 1.47(a). As previously indicated, a petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

Items (2) and (4) are still required to complete after the initial petition.

Concerning item (4), a new declaration signed by three of the four named inventors was provided. This declaration is in compliance with 37 CFR 1.497(a) and (b) and meets the requirements of section 409.03(a) of the MPEP. Item (4) is now satisfied.

With regard to item (2), the prior decision mailed 21 May 2007 stated:

> There is no evidence that petitioners attempted to locate Mr. Sato using the internet or a telephone directory . . . Moreover, copies of the items mailed 27 September 2004 were not included in the petition despite the claim in paragraph 3 of the declaration by Mr. Kokubun. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached must be submitted with any renewed petition."

In the renewed petition, applicants have provided copies of documentary evidence that may satisfy the requirements noted above. However, the documents are in Japanese and not accompanied with an English translation. As such, these documents are not acceptable. An English translation of the letters, emails and postal receipts are required. A translation of the internet YAHOO search results are not required.

For this reason, item (2) is still not satisfied.

CONCLUSION

For the reasons noted above, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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30 OCT 2007

23850
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Suite 1000
Washington, DC 20006

In re Application of :
ENDO *et al* :
U.S. Application No.: 10/510,245 :
PCT No.: PCT/JP03/04751 :
Int. Filing Date: 15 April 2003 : **DECISION**
Priority Date: 16 April 2002 :
Attorney Docket No.: 040474 :
For: RESIST REMOVING APPARATUS :
AND METHOD OF MOVING RESIST :

This decision is in response to applicants' "Second Renewed Petition under 37 C.F.R. §1.47(a)" filed 27 September 2007.

BACKGROUND

On 02 August 2007, a decision dismissing applicants' renewed petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 27 September 2007, a second renewed petition under 37 CFR 1.47(a) was filed which was accompanied by, *inter alia*, documentary evidence along with accompanying English translations.

DISCUSSION

In their renewed petition filed 23 July 2007, applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants submitted documentary evidence that could not be evaluated as it was not accompanied with an English translation. Applicants were requested to furnish the required translations in a renewed petition.

In the second renewed petition, applicants have provided the required translations of the documentary evidence.

A review of the evidence show that the 37 CFR 1.47(a) applicants attempted to contact the nonsigning inventor using the postal service, email, and facsimile. The 37 CFR 1.47(a) applicants also attempted an internet search of the nonsigning inventor. These attempts were not successful. Nonetheless, the evidence submitted shows that a 'diligent effort' was made by the 37 CFR 1.47(a) applicants as required by section 409.03(d) of the MPEP.

Item (2) of 37 CFR 1.47(a) is now satisfied.

CONCLUSION

Applicants' second renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 15 April 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 23 July 2007.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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AUG 0 2 2006

OFFICE OF PETITIONS

Paul F. Fehlner
Darby & Darby
P.O. Box 5257
New York, NY 10150-5257

In re Application of :
Andrew H. Thompson :
Application No. 10/510,246 : DECISION ON PETITION
Filed: June 27, 2005 : TO WITHDRAW
Attorney Docket No. 01073/0201939-US0 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul F. Fehlner on behalf of all attorneys of record who are associated with Customer No. 07278.

All attorneys/agents associated with the Customer Number 07278 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Andrew H. Thompson
30 Cantebury Street
Cambridge,CB4 3QF
United Kingdom

cc: Buchanan Ingersoll PC
1737 King Street, Suite 500
Alexandria, VA 22314-2727

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ALEXANDRIA, VA 22314-2727

In re Application of :
Andrew H. Thompson et al :
Serial No.: 10/510,246 : PETITION DECISION
Filed: October 1, 2004 :
Attorney Docket No.: 01073/0201939-US0 :

This is in response to the petition under 37 CFR 1.181, filed December 12, 2007, requesting restarting of the period for response.

An Office action was mailed to applicants on July 31, 2007, following a the granting of a Request to Withdraw as Attorney by the original attorney of record. The request also provided a new mailing address (but not a new Power of Attorney) to the above firm. For unknown reasons the Office entered as the new mailing address the first applicant's name and mailing address in the United Kingdom. The Office action of July 31, 2007 was mailed to this United Kingdom address. Applicants' mailing address has now been corrected in the Office records and the Office action is being remailed and the period for reply restarted.

The petition is **GRANTED.**

The period for response to the Office action originally mailed July 31, 2007, is vacated. The Office action will be remailed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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#3

KRATON POLYMERS U.S. LLC
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HOUSTON, TX 77082

In re Application of JOLY et al. Serial No.: 10/510,273 PCT App. No.: PCT/EP03/00277 Int'l Filing Date: 13 January 2003 Priority Date: 31 January 2002 Attorney Docket No.: L0004A/US For: BLOCKCOPOLYMER COMPOSITIONS HAVING IMPROVED MECHANICAL PROPERTIES AND PROCESSABILITY AND...	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 05 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $950 has been provided. The required petition fee of $1390 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. Applicant's deposit account will be charged the $130 surcharge for filing the oath or declaration after the thirty month period. The 35 U.S.C. 371(c)(1), (2) and (4) date is 05 October 2004.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

13 OCT 2005

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Ken J. Pedersen
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Boise, ID 83703

In re Application of
MADHOK, et al.
U.S. Application No.: 10/510,277
PCT No.: PCT/IN02/00100
Int. Filing Date: 03 April 2002
Priority Date: 03 April 2002
Attorney Docket No.: 3834
For: SYSTEM AND METHOD FOR DETECTING CARD FRAUD

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Petition to Commissioner to Accept Application Without Signature of Uncooperative Inventor (One of Three Total Inventors) Under 37 C.F.R. Section 1.47 With Declaration" filed 15 August 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 03 April 2002, applicant filed international application PCT/IN02/00100. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 09 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 October 2004.

On 04 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an Application Data Sheet. An executed oath or declaration was not included.

On 12 May 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees

On 15 August 2005, applicant responded with the present petition to accept the combined declaration and power of attorney without the signature of joint inventor Pankaj Sethi

accompanied by a declaration executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor. The petition was accompanied by a petition for a one-month petition of time and certification that the subject papers were deposited for mailing on 12 August 2005. As such, the response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

Regarding item (1), applicant provided a check in the amount of $130.00 as payment of the appropriate petition fee. Applicant is advised that the appropriate fee is $200.00. The $70.00 difference will be charged to Deposit Account No.: 50-2236.

As to item (2), applicant has provided a signed statement from counsel avowing to his first hand knowledge and detailing efforts to obtain the signature of Mr. Sethi; including sending a complete set of application papers to Mr. Sethi. The lack of response constitutes a refusal under the provisions of 37 CFR 1.47.

Regarding item (3), applicant has supplied a statement of the last known address of Mr. Sethi.

As to item (4), applicant has a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor.

Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 03 April 2002 under 35 U.S.C. 363, and will be given a date of **15 August 2005** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Derek A. Putonen
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 05/13/2010

Applicant	: Satoru Kawakami	: DECISION ON REQUEST FOR
Patent Number	: 7634225	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/510,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1470** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

09 MAY 2005

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#7

Cohen Pontani Lieberman & Pavane
551 Fifth Avenue
Suite 1210
New York NY 10176

In re Application of HELMNAR Serial No.: 10/510,293 PCT App. No.: PCT/EP03/02494 Int'l Filing Date: 11 March 2003 Priority Date: 11 March 2002 Attorney Docket No.: 5273-10PUS For: SYSTEM FOR LOADING AND UNLOADING UNIT LOADS INTO A CARGO HOLD, IN PARTICULAR OF AN AIRCRAFT, AND INTERMEDIATE TRANSPORT DEVICE OR CORRESPONDING TRANSPORT UNIT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 06 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $950 has been provided. The required petition fee of $1370 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 06 October 2004.

Cynthia M. Kratz
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02 APR 2007

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

In re Application of	:	
Vallee et al.	:	
Application No.: 10/510,306	:	DECISION
PCT No.: PCT/FR03/01075	:	
Int. Filing Date: 04 April 2003	:	ON
Priority Date: 05 April 2002	:	
Attorney Docket No.: REGIM 3.3-038	:	PETITION
For: Real-Time Navigational Aid	:	
System For Radiography	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 12 March 2007.

BACKGROUND

This international application was filed on 04 April 2003, claimed an earlier priority date of 05 April 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 16 October 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 05 October 2004. Applicant filed *inter alia* the basic national fee on 05 October 2004.

On 18 May 2005, a Notification Of Missing Requirements... (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e) then in effect.

On 12 April 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the U.S. national stage for failure to timely reply to the Form PCT/DO/EO/905 mailed on 18 May 2005.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding **requirement (1)**, the "required reply" is the reply required by the Form PCT/DO/EO/905 mailed on 18 May 2005. The $65.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 12-1095, per the general fee authorization filed on 05 October 2004. However, inspection of the declaration documents filed on 12 March 2007 reveals that the copy signed by Mr. Sabbah appears to have been assembled by attaching a faxed

signature page to the remaining sheets of the document (it is noted that the signed sheet bears an "Allstate Perfect Image" watermark, and appears to have been printed from a scan, whereas the remaining sheets do not). Applicants' attention is drawn to MPEP 201.03, which explains in part that

> **While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.**

Since petitioner has not presented a complete copy of the declaration document as signed by Mr. Sabbah, it is not clear what facts he subscribed to when he executed the document. As it would not be appropriate to accept the declaration as filed on 12 March 2007, requirement (1) has not been satisfied.

Regarding **requirement (2)**, the $750.00 petition fee is being charged to counsel's Deposit Account No. 12-1095, per the general fee authorization filed on 05 October 2004.

Regarding **requirement (3)**, the petition includes an appropriate statement of unintentional delay.

Regarding **requirement (4)**, no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

Petitioner's Deposit Account 12-1095 is being charged for the $750.00 petition fee and the $65.00 surcharge under 37 CFR 1.492(h), as discussed above.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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25 JUN 2007

United States Patent and Trademark Office

Commissioner for Patents
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

In re Application of	:	
Vallee et al.	:	
Application No.: 10/510,306	:	DECISION
PCT No.: PCT/FR03/01075	:	
Int. Filing Date: 04 April 2003	:	ON
Priority Date: 05 April 2002	:	
Attorney Docket No.: REGIM 3.3-038	:	PETITION
For: Real-Time Navigational Aid System For Radiography	:	

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 08 May 2007.

DISCUSSION

In a decision mailed on 02 April 2007, the petition to revive under 37 CFR 1.137(b) filed on 12 March 2007 was dismissed without prejudice because

> Regarding **requirement (1)**, the "required reply" is the reply required by the Form PCT/DO/EO/905 mailed on 18 May 2005. The $65.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 12-1095, per the general fee authorization filed on 05 October 2004. However, inspection of the declaration documents filed on 12 March 2007 reveals that the copy signed by Mr. Sabbah appears to have been assembled by attaching a faxed signature page to the remaining sheets of the document (it is noted that the signed sheet bears an "Allstate Perfect Image" watermark, and appears to have been printed from a scan, whereas the remaining sheets do not). Applicants' attention is drawn to MPEP 201.03, which explains in part that
>
> ***While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.***
>
> Since petitioner has not presented a complete copy of the declaration document as signed by Mr. Sabbah, it is not clear what facts he subscribed to when he executed the document. As it would not be appropriate to accept the declaration as filed on 12 March 2007, requirement (1) has not been satisfied.

In response, petitioner explains that the executed declaration was transmitted to counsel as a PDF document, and that "different suppliers' paper is used in the undersigned's office, and that it is likely that two different brands were in the machine when the Declaration was printed

out." In view of petitioner's explanation, it would be appropriate to accept the declaration filed on 12 March 2007. As such, all of the requirements of 37 CFR 1.137(b) have been satisfied.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner's Deposit Account 12-1095 was charged for a duplicate $750.00 petition fee on 08 May 2007. This fee was unnecessary, and it is being refunded to said Deposit Account.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **12 March 2007.**

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of
RAPP
Application No. 10/510,322
Filed: September 22, 2005
Attorney Docket No. 13976

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Gemrich.

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

24 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VENABLE LLP
PO Box 34385
Washington, D.C. 20043-9998

In re Application of
PAPP, Miklós
Application No.: 10/510,335
PCT No.: PCT/HU02/00101
Int. Filing Date: 04 October 2002
Priority Date: 08 October 2001
Attorney Docket No.: 31443-207019
For: DEVICE FOR REFLECTING ELECTROMAGNETIC WAVES, PARTICULARLY LIGHT AND HEAT RADIATION . . .

DECISION

Applicant's petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 05 October 2004 is hereby **GRANTED** as follows:

Applicant submitted the basic national fee and petition fee with the national stage papers. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed declaration in compliance with 37 CFR 1.497(a) and (b) has been provided. The $65.00 surcharge fee has been charged to Deposit Account No. 22-0261 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 October 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 05 October 2004. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

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AUG 22 2007

OFFICE OF PETITIONS

In re Application of
Haruki Kitamura et al.
Application No. 10/510,336
Filed: May 19, 2005
Attorney Docket No. 360842011700

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Barry E. Bretschneider on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the applicant. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Haruki Kitamura
1-101 Kakemachi 25-chome
Okazaki-shi, Aichi 444-001
JAPAN

cc: Raj S. Dave
Darby & Darby P.C.
1500 K Street, N.W.
Suite 250
Washington, DC 20005-1714

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/510,336	05/19/2005	Haruki Kitamura	360842011700

CONFIRMATION NO. 8390

OC000000025395350

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/24/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE., NW
WASHINGTON DC 20004-2400

COPY MAILED
OCT 28 2008

In re Application of :
Yukihiko TAGUCHI :
Application No. 10/510,340 : DECISION ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. 018842.1318 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed December 31, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 16, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

With respect to item 3: Petitioner must provide (a) a statement from the person responsible for docketing in law firm stating the Office action was never received; (b) a copy of the docketing log to verify that the Office action was not received by the law office; and (c) a description of the log must be given by the person responsible for the maintenance of the docketing log.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was

unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPT.
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20004-2400

MAILED

MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Yukihiko TAGUCHI :
Application No. 10/510,340 : DECISION ON PETITION
Filed: October 5, 2004 :
Docket No. 0188542.1318 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed; March 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received December 29, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL GRANDINETTI
LEVY & GRANDINETTI
SUITE 408
1725 K STREET NW
WASHINGTON, DC 20006-1419

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JUN 0 9 2008

In re Application of	:	
Huib Maat	:	
Application No. 10/510,341	:	DECISION ON PETITION
Filed: May 13, 2005	:	TO WITHDRAW
Attorney Docket No. W&K005US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul Grandinetti on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed November 28, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: HUIB MAAT
58 MICHELHAM GARDENS
STRAWBERRY HILL
TWICKENHAM, TW7 4SB UK

cc: MR. HUIB MAAT
EAIRA LTD.
REGIONAL DEVELOPMENT CENTRE
DUNDALK INSTITUTE OF TECHNOLOGY
DUBLIN ROAD
DUNDALK, COUNTY LOUTH
IRELAND

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/510,341	05/13/2005	Huib Maat	W&K005US

CONFIRMATION NO. 8374

POWER OF ATTORNEY NOTICE

Paul Grandinetti
Levy & Grandinetti
Suite 408
1725 K Street NW
Washington, DC 20006-1419

OC00000030344188

Date Mailed: 06/06/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,348	10/06/2004	Masahiko Hashimoto	2004_1571A	7535

513 7590 05/05/2006

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER	
THOMPSON, JEWEL VERGIE	
ART UNIT	**PAPER NUMBER**
2855	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

In re Application of

Hashimoto

Serial No.: 10/510,348

Filing Date: 10/06/2004

DECISION
VACATING
NOTICE OF ABANDONMENT

The **Response**, timely filed on 04-12-2006, has been **associated** with the application. As such, it is appropriate to vacate the Notice of Abandonment.

The Notice of Abandonment mailed 04-18-2006 is **VACATED.**

The application is being forwarded to the examiner for continued prosecution on the merits.

Linda Sprull
Group 2800,Tech. Support

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Stevens Davis
Miller & Mosher
Suite 850
1615 L Street NW
Washington DC 20036

MAILED

MAY 05 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Toshiaki Hiraki, et al.
Application No. 10/510,350
Filed: April 6, 2005
For: **RECEIVING APPARATUS AND RECEIVING METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 5, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination. This decision is also responsive to the copies of the foreign documents filed May 1, 2005.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Ulrich Schubert et al :
Application No. 10/510,355 : ON PETITION
Filed: April 28, 2005 :
Attorney Docket No. 208244/0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed January 24, 2007 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 25, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1648 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

24 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

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UNITED STATES PATENT AND TRADEMARK OFFICE
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KRATON POLYMERS U.S. LLC
INTELLECTUAL PROPERTY
3333 HIGHWAY 6 SOUTH, Rm. CA-110
HOUSTON TX 77082

In re Application of	:	
MARIS, Catherine A. et al.	:	
Application No.: 10/510,360	:	DECISION
PCT No.: PCT/EP03/00278	:	
Int. Filing Date: 13 January 2003	:	ON PETITION UNDER
Priority Date: 31 January 2002	:	
Docket No.: L0004B/US	:	37 CFR 1.137(b)
For: BLOCK COPOLYMER ... AND PROCESSABILITY	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 05 October 2004 is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and the petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has submitted a declaration. The application lists inventor "Jacques Moerenhout," but the declaration lists "Jaak L. Moerenhout". If this is a typographical or transliteration error, it can be corrected by a statement from the applicant indicating which is the correct name. See MPEP 201.03.

Applicant is required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

12 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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KRATON POLYMERS U.S. LLC
INTELLECTUAL PROPERTY
3333 HIGHWAY 6 SOUTH, Rm. CA-110
HOUSTON TX 77082

In re Application of	:	
MARIS, Catherine A. et al.	:	
Application No.: 10/510,360	:	
PCT No.: PCT/EP03/00278	:	
Int. Filing Date: 13 January 2003	:	DECISION
Priority Date: 31 January 2002	:	
Docket No.: L0004B/US	:	
For: BLOCK COPOLYMER ... AND PROCESSABILITY	:	

This decision is in response to applicant's "Response to Decision on Petition Under 37 CFR 1.37(b)" filed in the United States Patent and Trademark Office on 25 April 2005.

Applicant's 05 October 2004 declaration listed inventor "Jacques Moerenhout," but the declaration listed "Jaak L. Moerenhout". In the current submission, applicant indicates that the declaration was in error and supplies a declaration listing "Jacques Moerenhout" and in compliance with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 25 April 2005 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

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P.O. Box 1450
Alexandria, VA 22313-1450
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David E. Cromer
Vierra Magen Marcus Harmon & DeNiro LLP
685 Market Street, Suite 540
San Francisco, CA 94105-4206

In re Application of
SCHAAKE, Henk
Application No. 10/510,376
PCT No.: PCT/GB03/01524
Int. Filing Date: 08 April 2003
Priority Date: 08 April 2002
Attorney Docket No.: DEHN-01004US0
For: OPTICAL CONTROLS

DECISION ON PETITION
UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Petition to Make Application for Patent on Behalf of and as Agent of the Inventor under 37 CFR. 1.47(b)" filed 01 August 2005 to accept the application without the signature of inventor, Henk Schaake.

BACKGROUND

On 08 April 2003, applicant filed international application PCT/GB03/01524 which claimed a priority date of 08 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 October 2004.

On 05 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); copy of the international application; and a preliminary amendment.

On 29 March 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 01 August 2005, applicant filed the present petition under 37 CFR 1.47(b) and a two-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application

or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

Concerning Item (1), the petition fee has been submitted.

Regarding Item (2), a review of the present petition reveals that applicant has satisfied item (2), in that, the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Henk Schaake. The steps taken by John P. Tothill are sufficient to show that Henk Schaake has refused to execute the application.

Concerning Item (3), a statement of the last known address of the inventor has been provided.

Regarding Item (4), a declaration executed by Alan Cook, Director of Cliffgroup Limited, on behalf of the nonsigning sole inventor, Henk Schaake has been provided.

Concerning Item (5), petitioner has provided proof that applicant has sufficient proprietary interest in the application.

Regarding Item (6), applicant has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage.

CONCLUSION

The petition under 37 CFR 1.47(b) is **GRANTED**.

The application will be given an international filing date of 08 April 2003 under 35 U.S.C. 363, and a date of **01 August 2005** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Fax: 571-273-0459

18 AUG 2005

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Henk Schaake
Hooizolder 258
NL-9250 CE Drachten
The Netherlands

In re Application of
SCHAAKE, Henk
Application No. 10/510,376
PCT No.: PCT/GB03/01524
Int. Filing Date: 08 April 2003
Priority Date: 08 April 2002
Attorney Docket No.: DEHN-01004US0
For: OPTICAL CONTROLS

Dear Mr. Schaake:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
David E. Cromer
Vierra Magen Marcus Harmon & DeNiro LLP
685 Market Street, Suite 540
San Francisco, CA 94105-4206

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ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Lechot et al.	:	
Application No. 10/510,384	:	DECISION GRANTING PETITION
Filed: October 5, 2004	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. PUS-P001-031	:	

This is a decision on the petitions under 37 CFR 1.78(a)(3), filed May 1, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/IB03/01725, filed April 28, 2003, and under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petitions are **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3) and 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on October 5, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

claim for priority of the prior-filed applications in the Declaration filed with the application, as shown by their inclusion on the original filing receipt.

In view of the above, the $1410.00 petition fee is unnecessary and will not be charged to petitioner's deposit account.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206.

This application is being returned to Technology Center Art Unit 2775 for examination in due course.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Alexander Maass	: DECISION ON REQUEST FOR
Patent Number	: 7620497	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/510,398	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

In re Application of :
Robert M. Bernard et al. :
Application No. 10/510,399 : DECISION ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 34149-710.831 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 29, 2007. A Notice of Abandonment was mailed on January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the reply received July 14, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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03 FEB 2006

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In re Application of CRITTEN et al. Application No.: 10/510,403 PCT No.: PCT/GB03/01493 Int. Filing Date: 04 April 2003 Priority Date: 05 April 2002 Attorney's Docket No.: SD-Amour-SCH-1005-2-jhp For: USER AUTHENTICATION FOR COMPUTER SYSTEMS	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on Applicant's "Response to Notification of Missing Requirements" including a Petition under 37 CFR 1.47(b), filed 11 October 2005 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventors, Richard Critten, James Edward Charlesworth, Andrew Larter, Peter Green and Tracy John Dale. Applicant requests a five month extension of time, which is granted.

BACKGROUND

On 04 April 2003, applicant filed international application No. PCT/GB03/01493 which claimed a priority date of 05 April 2002, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 23 October 2003.

On 05 October 2004, prior to the expiration of the 30 month period from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 11 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 11 October 2005, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was not accompanied by a Statement of Facts under 37 CFR 1.47, based upon first hand knowledge, regarding the nonsigning inventors' refusal to sign the application. A declaration was not presented which was executed under 37 CFR 1.47(b), on behalf of the non-signing inventors.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Petitioner's attention is directed to Manuel of Patent Examining Procedure (MPEP) Section 409.03 et. seq. for instruction on fulfilling the requirements of 37 CFR 1.47.

Petitioner provided $130 petition fee, rather than the $200 fee. The $70 difference will be charged to applicant's deposit account, per their authorization, thus satisfying Item (1).

With respect to Item (2), the petition does not include a statement of facts signed by a person having firsthand knowledge of the facts recited therein. The petition does not offer any evidence to prove that the inventors named in PCT/GB03/01493 cannot be reached or located. Petitioner states "the inventors have either become unable to be found or refuse to sign" because they are no longer in the employ of the assignee or because they have not provided signed declaration for this application. Thus, an acceptable reason for filing under 37 CFR 1.47 has not been provided and Item (2) is not satisfied. See Manuel of Patent Examining Procedure (MPEP) Section 409.03(d).

Regarding Item (3), the petition indicates the same address as the last known address for all non-signing inventors. This address is not the address listed for each inventor in the published international application. The address required should be the last known address at which the inventor customarily receives mail, i.e., the last known residence. See MPEP Section 409.03(e).

With respect to Item (4), Petitioner has not identified the 37 CFR 1.47(b) applicant. Petitioner has not submitted a declaration under 37 CFR 1.47(b), executed by the 37 CFR 1.47(b) applicant. Pursuant to 37 CFR 1.64(b), where the person making the declaration is not the inventor, the declaration must state the relationship of the person to the inventor, and upon information and belief, the facts which the inventor is required to state. Furthermore, petitioner is advised, where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. Item (4) is not satisfied.

Regarding item (5), petitioner did not attempt to prove that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application. The 37 CFR 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. *See* MPEP §409.03(f). Item (5) is not satisfied.

Finally, with respect to Item (6), applicant has not provided "a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage". *See* MPEP §409.03(g) Thus, Item (6) is not satisfied. See MPEP Section 409.03(g).

Accordingly, items (2), (3), (4), (5) and (6) above have not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
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21 NOV 2006

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In re Application of
CRITTEN et al.
Application No.: 10/510,403
PCT No.: PCT/GB03/01493
Int. Filing Date: 04 April 2003
Priority Date: 05 April 2002
Attorney's Docket No.: SD-Amour-SCH-1005-2-jhp
For: USER AUTHENTICATION FOR COMPUTER SYSTEMS

DECISION ON

PETITION

UNDER 37 CFR 1.47(b)

This is a decision on Applicant's "Renewed Petition under 37 CFR 1.47(b)", filed 05 September 2006 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventors, Richard Critten, James Edward Charlesworth, Andrew Larter, Peter Green and Tracy John Dale. Applicant requests a five month extension of time, which is granted. A petition to withdraw the Notice of Abandonment was also submitted.

BACKGROUND

On 04 April 2003, applicant filed international application No. PCT/GB03/01493 which claimed a priority date of 05 April 2002, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 23 October 2003.

On 05 October 2004, prior to the expiration of the 30 month period from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 11 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 11 October 2005, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was not accompanied by a Statement of Facts under 37 CFR 1.47, based upon first hand knowledge, regarding the nonsigning inventors' refusal to sign the application. A declaration was not presented which was executed under 37 CFR 1.47(b), on behalf of the non-signing inventors.

On 03 February 2006, a decision dismissing applicant's petition was mailed indicating that

applicant had failed to meet the requirements under 37 CFR 1.47(b). Petitioner's attention was directed to Manuel of Patent Examining Procedure (MPEP) Section 409.03 et. seq. for instruction on fulfilling the requirements of 37 CFR 1.47.

On 17 July 2006 a Notification of Abandonment was mailed indicating that applicant had failed to respond to the 905 mailed on 11 March 2005.

On 05 September 2006, applicant filed the instant renewed petition along with a request to withdraw the holding of abandonment.

DISCUSSION

A review of the application file reveals that the Notification of Abandonment mailed on 17 July 2006 was sent in error. Applicant did respond to the 11 March 2005 Notification of Missing Requirements on 11 October 2005 along with a request for a five month extension of time which was granted. The Notification of Abandonment mailed on 17 July 2006 is hereby VACATED.

As previously stated, a petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner previously provided the petition fee satisfying Item (1). Regarding Item (3), the petition provides the last known address for each of the non-signing inventors. Item (3) is satisfied.

With respect to Item (2), the petition does not include a statement of facts signed by a person having firsthand knowledge of the facts recited therein. The petition does not offer any evidence to prove that the inventors named in PCT/GB03/01493 cannot be reached or located. Petitioner states "that our client has not been able to contact all the inventors". The fact that the inventors cannot be found or refuse to sign because they are no longer in the employ of the assignee or because they have not provided signed declaration for this application is not sufficient. Thus, an acceptable reason for filing under 37 CFR 1.47 has not been provided and Item (2) is not satisfied. *See* Manuel of Patent Examining Procedure (MPEP) Section 409.03(d).

With respect to Item (4), Petitioner has not identified the 37 CFR 1.47(b) applicant. Petitioner has not submitted a declaration under 37 CFR 1.47(b), executed by the 37 CFR 1.47(b) applicant. The declaration presented identifies only one of the five inventors. The declaration must meet the requirements of 37 CFR .1497(a) and (b). Pursuant to 37 CFR 1.64(b), where the person making the declaration is not the inventor, the declaration must state the relationship of the person to the inventor, and upon information and belief, the facts which the inventor is required to state. Furthermore, petitioner is advised, where the oath or declaration is being signed on behalf of an assignee, see MPEP §324. Item (4) is not satisfied.

Regarding item (5), petitioner did not attempt to prove that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application. The 37 CFR 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. Merely attaching copies of copies of United Kingdom patent publications does not satisfy the above

criteria. *See* MPEP §409.03(f). Item (5) is not satisfied.

Finally, with respect to Item (6), applicant has not provided a statement to the effect that "such action is necessary to preserve the rights of the parties or to prevent irreparable damage". *See* MPEP §409.03(g) Thus, Item (6) is not satisfied. See MPEP Section 409.03(g).

Accordingly, items (2), (4), (5) and (6) above have not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

For the reasons set forth above, the Notification of Abandonment mailed on 17 July 2006 is **VACATED.**

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Cynthia M. Kratz/

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27 MA 2007

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MINNEAPOLIS MN 55440-1022

In re Application of
CRITTEN et al.
Application No.: 10/510,403
PCT No.: PCT/GB03/01493
Int. Filing Date: 04 April 2003
Priority Date: 05 April 2002
Attorney's Docket No.: 18305-002US1
For: USER AUTHENTICATION FOR COMPUTER SYSTEMS

DECISION ON

PETITION

UNDER 37 CFR 1.47(a)

This is a decision on Applicant's "Renewed Petition under 37 CFR 1.47(a)", filed 21 February 2007 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventors James Edward Charlesworth and Peter Green. Applicant requests a one month extension of time, which is granted.

BACKGROUND

On 04 April 2003, applicant filed international application No. PCT/GB03/01493 which claimed a priority date of 05 April 2002, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 23 October 2003.

On 05 October 2004, prior to the expiration of the 30 month period from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 11 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 11 October 2005, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was not accompanied by a Statement of Facts under 37 CFR 1.47, based upon first hand knowledge, regarding the nonsigning inventors' refusal to sign the application. A declaration was not presented which was executed under 37 CFR 1.47(b), on behalf of the non-signing inventors.

On 03 February 2006, a decision dismissing applicant's petition was mailed indicating that applicant had failed to meet the requirements under 37 CFR 1.47(b). Petitioner's attention was directed to Manuel of Patent Examining Procedure (MPEP) Section 409.03 et. seq. for instruction on fulfilling the requirements of 37 CFR 1.47.

On 17 July 2006, a Notification of Abandonment was mailed indicating that applicant had failed to respond to the 905 mailed on 11 March 2005.

On 05 September 2006, applicant filed a renewed petition under 37 CFR 1.47(b) along with a request to withdraw the holding of abandonment. On 21 November 2006, a decision, vacating the Notification of Abandonment and dismissing the petition, was mailed indicating that applicant had not satisfied the requirements of 37 CFR 1.47(b).

On 21 February 2007, applicant filed a petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor.

Petitioner previously provided the petition fee satisfying Item (1). With respect to Item (2), the petition includes a statement of facts signed by Victoria Bradford, a patent attorney having firsthand knowledge of the facts recited therein. The petition offers evidence to prove that the inventors James Edward Charlesworth and Peter Green refuse to sign the application papers. Ms Bradford provided copies of the correspondence indicating that a complete copy of the application papers was sent to the nonsigning inventors along with proof of delivery to the nonsigning inventors last known address . Thus, Item (2) is satisfied.

Regarding Item (3), the petition provides the last known address for each of the non-signing inventors. Item (3) is satisfied.

With respect to Item (4), Petitioner has submitted a declaration under 37 CFR 1.47(a), executed by the joint inventors on their own behalf and on behalf of the nonsigning inventors. The declaration meets the requirements of 37 CFR .1497(a) and (b). Item (4) is satisfied.

The action taken by petitioner is sufficient to demonstrate that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/510,403 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signatures and that Messrs. Charlesworth and Green's conduct is construed as a refusal to sign the application papers. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a).

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 21 February 2007. The application has an international filing date of 04 April 2003 under 35 U.S.C. 363, and a date of 21 February 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

07 MAR 2007

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JAMES EDWARD CHARLESWORTH
27 CROMARTY DRIVE
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LEICESTER LE10 0RX
UNITED KINGDOM

In re Application of
CRITTEN et al.
Application No.: 10/510,403
PCT No.: PCT/GB03/01493
Int. Filing Date: 04 April 2003
Priority Date: 05 April 2002
Attorney's Docket No.:18305-002US1
For: USER AUTHENTICATION FOR COMPUTER SYSTEMS

DECISION ON

PETITION

UNDER 37 CFR 1.47(a)

Dear Mr. Charlesworth:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

FISH & RICHARDSON, PC
P.O. BOX 1022
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DAVIS & BUJOLD
Fourth Floor
500 North Commercial Street
Manchester, NH 03101-1151

In re Application of:	:	
COWUP, John, Henry, William	:	DECISION ON PETITION TO
U.S. Application No.: 10/510,414	:	REVIVE ABANDONED
PCT No.: PCT/GB03/00848	:	APPLICATION UNDER 37
International Filing Date: 28 February 2003	:	CFR 1.137(b)
Priority Date: 01 March 2002	:	
Attorney's Docket No.: COLGRA P50AUS	:	
For: GOLFING AIDS	:	

The petition to revive under 37 CFR 1.137(b) filed 06 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the 06 October 2004 submission included an executed declaration in compliance with 37 CFR 1.497. Based on the authorization contained in the Form PTO-1390 Transmittal Letter, Deposit Account No. 04-0213 will be charged the $65 small entity surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 06 October 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901

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OFFICE OF PETITIONS

In re Application of
Daniel Santhouse
Application No. 10/510,431
Filed: July 7, 2005
Attorney Docket No. 884.0158USU

ON PETITION

This is a decision in response to the petition, filed July 2, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 4, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 5, 2007. A Notice of Abandonment was mailed on May 6, 2008. In response, on July 2, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3749 for appropriate action by the Examiner in the normal course of business on the reply received July 2, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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PLANO, TX 75075

Mail Date: 05/13/2010

Applicant	: Andrew Silver	: DECISION ON REQUEST FOR
Patent Number	: 7616648	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/510,436	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1053** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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5718 WESTHEIMER, SUITE 1800
HOUSTON, TX 77057

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OFFICE OF PETITIONS

In re Application of :
Andre Leguen et al :
Application No. 10/510,456 : ON PETITION
Filed: October 4, 2004 :
Attorney Docket No. GLN-050/US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 1, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 2, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on May 9, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3636 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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HONIGMAN MILLER SCHWARTZ &
COHN LLP
444 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007-3714

In re Application of	:	
Lee, et al.	:	
Application No. 10/510,459	:	ON APPLICATION FOR
Filed: August 25, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 223255/120994	:	

This is in response to the **APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b)**, filed March 30, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred eighty-nine (789) days[1], not four hundred sixty-seven (467) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of

[1] This calculation is based on a projected issuance date of July 14, 2009.

issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Honigman Miller Schwartz and Cohn LLP/BIIB
350 East Michigan Avenue, Suite 300
Kalamazoo, MI 49007-3800

Mail Date: 04/30/2010

Applicant	: Wen-Cherng Lee	: DECISION ON REQUEST FOR
Patent Number	: 7612094	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/510,459	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1011** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Clifford W. Browning
111 Monument Circle
Suite 3700
Indianapolis, IN 46204-5137

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In re Application of :
Christopher Duncan et al. :
Application No. 10/510,462 : DECISION ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. 16933-3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 16, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Office action, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on October 29, 2008 was subsequent to the maximum extendable period for reply, no extension of time is required. A refund will be issued in due time.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 3727 for appropriate action by the Examiner in the normal course of business on the reply received

David Buccl
Petitions Examiner
Office of Petitions

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19 JAN 2006

RANBAXY INC.
600 COLLEGE ROAD EAST
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PRINCETON, NJ 08540

In re Application of GOGIA et al :
U.S. Application No.: 10/510,468 :
PCT Application No.: PCT/IB03/01361 :
Int. Filing Date: 11 April 2003 : DECISION
Priority Date Claimed: 11 April 2002 :
Attorney Docket No.: RLL-255US :
For: CONTROLLED RELEASE :
PHARMACEUTICAL COMPOSITIONS . . . :

This is in response to applicant's "Petition to File When Inventor Cannot Be Reached Under 37 CFR § 1.47" filed 07 November 2005.

BACKGROUND

On 11 April 2003, applicant filed international application PCT/IB03/01361, which claimed priority of an earlier India application filed 11 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 16 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 October 2004.

On 07 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 April 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 November 2005, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee will be charged to Deposit Account No. 50-0912 as authorized in the petition.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that all of the joint inventors cannot be reached. However, petitioner has not provided an affidavit which describes the purported attempts to locate the inventors. Such an affidavit must be signed by the person with firsthand knowledge of the facts cited therein. Furthermore, copies of documentary evidence of attempts to locate the inventors have not been furnished.

With regard to item (3) above, the petition states the last known addresses of the nonsigning inventors.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors has not been provided. Applicant is advised that when an assignee files an application under 37 CFR 1.47(b), ownership of the application must be established. See MPEP 324. Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO. In the present case,

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to

the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, proof of sufficient proprietary interest in the application has not been provided.

With regard to item (6) above, no showing regarding the preservation of rights of the parties or the prevention of irreparable damage has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.36(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

#3

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON, DC 20005-3315

In re Application of :
NAGULESWARAN et al. :
Application No.: 10/510,473 (10/525,250) :
PCT No.: PCT/AU03/00740 : DECISION on
Int. Filing Date: 13 June 2003 :
Priority Date: 14 June 2002 :MERGING APPLICATION FILES
Attorney Docket No.: 3127-14 (06821.0019) :
For: METHOD AND RECEIVER FOR PROCESSING :
A MULTI-USER SIGNAL :

The above-identified application is before the PCT Legal Office for matters arising under 35 U.S.C. 371.

BACKGROUND

On 13 June 2003 , applicant filed international application No. PCT/AU03/00740, which claimed priority of an earlier international application filed 14 June 2002 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 December 2003. On 04 December 2003, a Demand was filed. The deadline for entering the U.S. national stage to 30 months or as of midnight on 14 December 2004.

On 22 October 2004, applicant filed, through the law firm of Nixon & Vanderhye, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). The submission, identifying PCT/AU03/00740, was assigned U.S. application number: 10/510,473.

On 22 February 2005, applicant, through the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, filed another Transmittal Letter referencing PCT/AU03/00740 and requesting entry into the national stage in the United States. The communication was accompanied by, *inter alia*, a copy of the international application PCT/AU03/00740 and authorization to charge fees to applicant's deposit account. These papers were assigned U.S. application number 10/525,250.

DISCUSSION

As is evident from the above recited facts, applicant submitted papers to enter the national stage for the same international application on 07 October 2004 and 22 February 2005. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, assigning a second U.S. application number arising from PCT/AU03/00740 was improper.

CONCLUSION

The applications are being held in the Office of PCT Legal Administration, PCT Legal Office to await the filing of an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), executed by the inventors.

Cynthia M. Kratz
Attorney/Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

05 MAY 2005

#6

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In re Application of
NAGULESWARAN et al.
Application No.: 10/510,473
PCT No.: PCT/AU03/00740
Int. Filing Date: 13 June 2003
Priority Date: 14 June 2002
Attorney Docket No.: 3127-14 (06821.0019)
For: METHOD AND RECEIVER FOR PROCESSING A MULTI-USER SIGNAL

DECISION on

SUBMISSION

This is in response to applicant's submission on 13 April 2005 in the above-identified application.

On 13 June 2003 , applicant filed international application No. PCT/AU03/00740, which claimed priority of an earlier international application filed 14 June 2002 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 December 2003. On 04 December 2003, a Demand was filed. The deadline for entering the U.S. national stage to 30 months or as of midnight on 14 December 2004.

On 22 October 2004, applicant filed, through the law firm of Nixon & Vanderhye, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). The submission, identifying PCT/AU03/00740, was assigned U.S. application number: 10/510,473.

On 22 February 2005, applicant, through the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, filed another Transmittal Letter referencing PCT/AU03/00740 and requesting entry into the national stage in the United States. The communication was accompanied by, *inter alia*, a copy of the international application PCT/AU03/00740 and authorization to charge fees to applicant's deposit account. These papers were assigned U.S. application number 10/525,250.

On 15 March 2005, applicant, through the law firm of Nixon & Vanderhye, filed a declaration executed by the inventors, identifying the above referenced international application, to which it was directed.

The application will be forwarded to the United States Designated/Elected Office for further processing. The papers filed in 10/525,250 will be placed in application no. 10/510,473. Applicants are advised to direct all future communications for this application to **10/510,473**.

/Cynthia M. Kratz
Attorney/Advisor
PCT Legal Office

Telephone: (571) 272-3286

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAIL

JAN 23 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
NAGULESWARAN, et al.
Application No. 10/510,473
Filed: October 7, 2004
For: **METHOD AND RECEIVER FOR PROCESSING A MULTI-USER SIGNAL**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed April 1, 2005 and supplemental communication and Information Disclosure Statement filed November 21, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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Kirkpatrick & Lockhart Preston Gates Ellis, LLP
(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON, MA 02111-2950

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OFFICE OF PETITIONS

In re Application of	:	
James Browning	:	
Application No. 10/510,488	:	DECISION ON PETITION
Filed: March 28, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MPA-003	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 22, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed on March 28, 2005.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the declaration filed on March 28, 2005, as shown by its inclusion on the filing receipt mailed November 10, 2005.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,410 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being referred to Technology Center Art Unit 3735, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed application.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

14 OCT 2004

#3

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Tim Xia
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, GA 30326-1044

In re Application of WIKSWO et al	:	
U.S. Application No.: 10/510,500	:	
PCT Application No.: PCT/US02/24938	:	
Int. Filing Date: 06 August 2002	:	
Priority Date Claimed: 06 August 2001	:	DECISION
Attorney Docket No.: 14506-44191 (formerly 60063.10USWO)	:	
For: SYSTEM AND METHODS FOR DISCRIMINATING AN AGENT	:	

This is in response to applicant's "Petition Under 37 CFR § 1.182" filed 08 April 2004 and "Petition Under 37 C.F.R. § 1.10(e)" filed 23 July 2004.

BACKGROUND

On 06 August 2002, applicant filed international application PCT/US02/24938, which claimed priority of an earlier United States application filed 06 August 2001. The thirty-month period for paying the basic national fee in the United States expired on 06 February 2004.

On 12 January 2004, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a Transmittal Letter (Form PTO-1390) which identified the international application number as "PCT/US02/24983".

On 08 April 2004, applicant filed the present petition under 37 CFR 1.182.

On 23 July 2004, applicant filed the present petition under 37 CFR 1.10(e).

DISCUSSION

The purported national stage papers originally filed on 12 January 2004 have been located and placed in the application file.

According to the petition, applicant inadvertently listed the incorrect international application number on the transmittal letter. A review of the application file reveals that the papers accompanying the transmittal letter listed international application Number PCT/US02/24838. Furthermore, the transmittal letter listed the title of invention associated with international application number PCT/US02/24838. Thus, it is reasonable to conclude that applicant intended to file national stage papers based on international application number PCT/US02/24838.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The petition under 37 CFR 1.10(e) is DISMISSED AS MOOT.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

23 JUN 2005

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Ronald I. Eisenstein
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110

In re Application of	:
KANE, Patrick D.	:
US Application No.: 10/510,518	:
PCT Application No.: PCT/US02/30997	: DECISION ON
Int. Filing Date: 30 September 2002	: PETITION UNDER
Priority Date: 28 September 2001	: 37 CFR 1.137(b)
Attorney's File Reference: 01696-52555	:
For: LOCALIZED NON-INVASIVE BIOLOGICAL MODULATION SYSTEM	:

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 07 October 2004. The petition is **GRANTED**.

BACKGROUND

On 30 September 2002, applicants filed international application PCT/US02/30997. The international application designated the United States and did claim priority to an earlier filed application. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 28 March 2004. Applicant missed this deadline.

On 07 October 2004, applicant filed the instant petition for revival accompanied by, *inter alia*, a Transmittal Letter, an Express Mail Certificate, an application data sheet, a preliminary amendment, a copy of PCT/IB forms 301 and 304, Form PCT/IB/308, the first page of the International Publication (WO 03/026618), the International Search Report, an information disclosure and a check for $1,145.00 which included the payment of the basic national fee and the surcharge for filing the oath or declaration later than 30 months from the earliest claimed priority document.

An oath or declaration of the inventors required by 35 U.S.C. 371(c)(4) has not yet been received.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement

that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the basic national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "[t]he entire delay in filing the required reply from the due date until the filing of a grantable this petition was unintentional (37 CFR 1.137(b)(3))" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Craig Thompson
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

In re Application of :
ASCHER, et al. :
Application No. 10/510,532 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. 32439A : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "file transfer" does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **D. Peter Hochberg Co., LPA**
1940 East 6th Street, 6th Floor
Cleveland, OH 44114-2294

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OFFICE OF PETITIONS

In re Application of

ASCHER, et al.
Application No. 10/510,532
Filed: October 7, 2004
Attorney Docket No. IB/G-32439A

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John Thallemer on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GERD ASCHER**
DAXERFELD 3
KUNDL, AUSTRIA 6250

cc: **D. PETER HOCHBERG CO, LPA**
1940 EAST 6TH STREET, 6TH FLOOR
CLEVELAND, OH 44114-2294

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OFFICE OF PETITIONS

D PETER HOCHBERG ESQ
D PETER HOCHBERG CO LPA
1940 EAST 6TH STREET - 6TH FLOOR
CLEVELAND OH 44114

In re Application of :
Ascher, et. al :
Application No. 10/510,532 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. KS4255US :
(#90711)

This is a decision on the petition to revive under 37 CFR 1.137(a), filed December 14, 2007.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed January 25, 2007. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on February 26, 2007. A Notice of Abandonment was mailed on September 14, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

Petitioner asserts that the entire period of delay was unavoidable because the January 25, 2007 Office action was mailed to the address of the first named inventor, rather than the attorney for Applicants. However, the Office properly acted in mailing the January 25, 2007 Office action to the first named inventor. On October 27, 2006, the previous counsel for applicants filed a "Request for Withdrawal as Attorney or Agent and Change of Correspondence Address". On November 28, 2006, the Office mailed a letter approving the request to withdraw as attorney. However, the letter stated that the request to change the correspondence address was not acceptable, as the requested address was not that of (1) the first named signing inventor, or (2) an intervening assignee of the entire interest under 37 CFR 3.71. The Office indicated that all future correspondence would be directed to the first named signing inventor, until otherwise properly notified by applicant. A courtesy copy was

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

directed to attorney Peter Hochberg.[3] The next Office communication mailed was the January 25, 2007 Office action. Thereafter, applicants filed a Power of Attorney and Change of Correspondence Address on February 22, 2007.

As such, the record supports that the January 25, 2007 Office action was properly mailed to the address of the first named inventor.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[3] The Office letter mailed November 28, 2006 was not successfully delivered to the address of the first named inventor, because of insufficient postage. However, there is no indicating that the Office letter mailed January 25, 2007 was returned as undeliverable, as asserted by petitioner.

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OFFICE OF PETITIONS

In re Application of :
Ascher, et. al :
Application No. 10/510,532 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. KS4255US :
(#90711)

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 16, 2008.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed January 25, 2007. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on February 26, 2007. A Notice of Abandonment was mailed on September 14, 2007. Applicants filed a petition to revive under 37 CFR 1.137(a) on December 14, 2007. However, the petition was dismissed in a decision mailed on January 4, 2008.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an Election was previously filed on December 14, 2007.

The matter is being forwarded to Group Art Unit 1617 for consideration of the Election filed December 14, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

21 DEC 2004

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

In re Application of :
BRUDER, Gernot et al. :
Application No.: 10/510,540 : DECISION ON
PCT No.: PCT/EP03/03440 :
Int. Filing Date: 02 April 2003 : PETITION
Priority Date: 09 April 2002 :
Attorney Docket No.: WITT0103PUSA : UNDER 37 CFR 1.182
For: HARDTOP VEHICLE ROOF WITH :
THREE RIGID ROOF PIECES :

This decision is in response to applicant's "Petition Under Rule 1.182 C.F.R.," filed on 21 October 2004.

BACKGROUND

On 02 April 2003, applicant filed international application PCT/EP03/03440 which claimed a priority date of 09 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 October 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 12 October 2004 (09 October 2004 was a Saturday and 11 October 2004 was a holiday).

On 07 October 2004, applicant submitted a transmittal letter to the national office accompanied by a translation, a declaration, a preliminary amendment and the basic national fee.

On 21 October 2004, applicant submitted the instant petition, requesting that the Office disregard the translation and the preliminary amendment submitted on 07 October 2004.

DISCUSSION

Applicant petitions the Office to disregard the translation submitted on 07 October 2004 as it is not a translation of the international application and the preliminary amendment.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a translation of the international application and the processing fee for late submission of the translation are required.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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PAULEY PETERSON & ERICKSON
2800 W. HIGGINS ROAD
SUITE 365
HOFFMAN ESTATES, IL 60169

Mail Date: 04/27/2010

Applicant	: Patrick T. Rigney	: DECISION ON REQUEST FOR
Patent Number	: 7625628	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/510,550	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **515** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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25 MAY 2007

Csaba Henter
Millen, White, Zelano & Branigan, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, VA 22201

In re Application of	:	
SCHUURMANN, et al.	:	DECISION ON PETITIONS
Serial No.: 10/510,577	:	
PCT No.: PCT/EP03/03751	:	UNDER 37 CFR 1.48(a)
Int. Filing Date: 10 April 2003	:	
Priority Date: 10 April 2002	:	AND 37 CFR 1.47(a)
Atty Docket No.: GULDE-0052	:	
For: N-(3-RIFAMYCINYL)-CARBAMATES, METHOD OF PREPARING THEM AND THEIR USE FOR TREATING AND PREVENTING TUBERCULOSIS	:	

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. §1.47(a)" filed 08 March 2007 to accept the application without the signature of joint inventor Zoya Andonova Nedeyalkova.

BACKGROUND

On 10 April 2003, applicant filed international application PCT/EP03/03751 which claimed priority to a previous application filed 10 April 2002. A copy of the international application was transmitted to the United States on 16 October 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 10 October 2004.

On 08 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and an Information Disclosure Statement.

On 16 February 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 15 July 2005, applicant filed a response including a combined declaration and power of attorney accompanied by a petition for a three-month extension of time.

On 20 September 2005, applicant was mailed a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating an date of completion of all 35 U.S.C. 371 requirements of 15 July 2005.

On 11 August 2006, applicant filed a petition under 37 CFR 1.48(a) to add Zoya Andonova Nedeyalkova as an inventor in the present application accompanied by an additional combined declaration and power of attorney, which listed Zoya Andonova Nedeyalkova as an inventor.

On 08 March 2007, applicant filed the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Zoya Andonova Nedeyalkova indicating that while Ms. Nedeyalkova was listed on the declaration filed 11 August 2006, she had not executed said document.

DISCUSSION

I. PETITION UNDER 37 CFR 1.48(a)

Applicant is advised that while Zoya Andonova Nedeyalkova was inadvertently left off of the declaration filed in the U.S. National stage on 15 July 2005, she was listed as an inventor on the published international application; as such, the petition to add her as an inventor pursuant to 37 CFR 1.48(a) is **DISMISSED as moot**.

II. PETITION UNDER 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1 and 3.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." 409.03(d) also states that:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal

was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.

In the present case, applicant has not provided any firsthand details regarding the presentation of papers to Ms. Nedeyalkova nor the nature of her purported refusal. The only evidence provided to support the contention that Ms. Nedeyalkova refuses to participate is the letter of Dr. Marlene K. Ziebig. However, this document merely recounts secondhand information from a Ms. Valcheva and therefore is not conclusive evidence for the purposes of 37 CFR 1.47. In order to proceed under 37 CFR 1.47, applicant must provide firsthand evidence that the non-signing inventor was presented with a complete set of application papers and either refused to accept the papers or refused to execute and return the oath or declaration. (The silence of the inventor coupled with proof of delivery of the application papers to the inventor in question constitutes a refusal under 37 CFR 1.47.

Regarding item (4), the declaration filed 11 August 2006 does not comply with 37 CFR 1.497 (a)-(b).

Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The declaration filed 11 August 2006 contains three pages "3 of 4." This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

In light of the above, it is not possible to grant applicant's petition at this time.

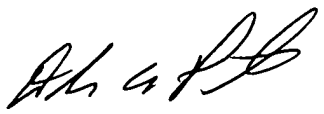
CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.48(a) is **DISMISSED as moot**.

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Applicant is advised that in order for the renewed petition to be considered applicant must provide payment of the remaining $70.00.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Derek A. Putonen
Attorney Advisor
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Tel: 571-272-3294
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2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON, VA 22201

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Dimcho Ivanov Dimov et al	:	
Application No. 10/510,577	:	NOTICE OF WITHDRAWAL
Filed: July 15, 2005	:	FROM ISSUE
Attorney Docket No. GULDE-0052	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313(b).

The application is being withdrawn from issue because the requirements of 35 U.S.C. § 371(c) for entry into the national stage in the United States of America have not been completed. This withdrawal was requested by the Director of the Office of PCT Legal Administration and Office of Petitions.

Office finance records do not indicate that the issue fee in this case has been paid.

This application is being retained in the Office of the Director of PCT Legal Administration to take prompt appropriate action, including notifying applicant of the new status of this application.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Yoshihiko Hamawaki :
Application No. 10/510,589 : DECISION ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 0941-1715PUS1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed July 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination under 37 CFR 1.114 with the $810 filing fee and an amendment, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

This application is being revived for consideration of the RCE filed on December 21, 2007.

This application is being referred to Technology Center Art Unit 2871, for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Foley & Lardner LLP
1530 Page Mill Road
Palo Alto, CA 94304

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
Himangshu S. Bose et al. :
Application No. 10/510,593 : DECISION ON PETITION
Filed: September 19, 2005 : TO WITHDRAW
Attorney Docket No. USCF.009.01US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Foley & Lardner LLP has been revoked by the assignee of the patent application on November 8, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Quine Intellectual Property Law Group, P.C.**
P.O. Box 458
Alameda, CA 94501

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of	:	
DENG	:	
Application No.: 10/510,617	:	
PCT No.: PCT/CN2002/000246	:	DECISION ON PETITION
Int. Filing Date: 09 April 2002	:	
Priority Date: 09 April 2002	:	
Attorney Docket No.: 53624/DBP/C306	:	
For: A PHARMACEUTICAL COMPOSITION FOR TREATING RHEUMATISM AND THE PREPARATION THEREOF	:	

This is a decision on applicant's "Petition Under 37 CFR 1.182 And/Or 1.183 to File a Substitute Translation of The PCT Specification filed on 03 August 2009 in the United States Patent and Trademark Office (USPTO). Applicant has provided payment of $130.00 towards the petition fee of $400.00. As authorized, the remaining $270.00 will be charged to deposit account 03-1728.

BACKGROUND

On 09 April 2002, applicant filed international application PCT/CN2002/000246. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 October 2004.

On 07 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a preliminary amendment and an Information Disclosure Statement.

On 10 March 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file a proper response.

On 25 April 2005, applicant responded with a signed declaration of the inventor.

On 24 May 2005, applicant was mailed a "Notice of Acceptance" (Form

PCT/DO/EO/903).

On 03 August 2009, applicant filed the present petition under 37 CFR 1.182 and/or 37 CFR 1.183 to have the concurrently filed substitute specification entered.

DISCUSSION

Applicant is petitioning the Office of PCT Legal Administration under 37 CFR 1.182 and/or 1.183 to "enter a substitute, English translation of the PCT specification" in the present national stage application.

The requirement for an English translation of a PCT application filed in a foreign language is set for in 35 U.S.C. 371(c):

(c) The applicant shall file in the Patent and Trademark Office -

...

(2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language; ....

Petitioner does not contend that the originally filed translation of the international application is inaccurate or otherwise fails to comply with the requirement of §371(c)(2). To the contrary, Petitioner states that applicant "previously complied with the statutes and regulations pertaining to the entry into the national stage, including submission of a certified English translation of the Chinese language PCT application." Because the requirement for a translation is statutory, the Office does not have authority to waive this requirement or accept anything less than an accurate translation as satisfying §371(c)(2). With regard to the newly submitted "substitute" translation, it is noted that it has not been certified as an accurate translation; rather it has been certified as an English translation that "conforms essentially to the original Chinese language" (emphasis added). Accordingly, the substitute "translation" will not be accepted in lieu of the originally furnished translation based on the present record.

As Petitioner has not identified any requirement of a regulation to be waived, the petition under 37 CFR 1.183 is DISMISSED.

Further, because the regulations (37 CFR 1.125) currently provide for the submission of a substitute specification, the petition under 37 CFR 1.182 is DISMISSED. Applicant is reminded that the provisions of 37 CFR 1.125 permit the submission of a substitute specification to correct a specification provided in faulty English. See MPEP 608.01(q). To the extent that Petitioner disagrees with an Examiner's refusal to enter the substitute specification because of "new matter," the petition procedure under MPEP 1002.02(c) is available.

CONCLUSION

For the reasons stated above applicant's petition is **DISMISSED**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

08 DEC 2006

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Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

In re Application of
NG et al.
Application No.: 10/510,641
PCT No.: PCT/SG03/00011
Int. Filing Date: 20 January 2003
Priority Date: None
Atty. Docket No.: 3225-103
For: TITANIUM UNDERLAYER FOR LINES IN SEMICONDUCTOR DEVICES

DECISION

This decision is issued in response to applicants' "Request for Corrected Filing Receipt" filed on 06 April 2005 and applicants' "Renewed (Second) Request for Corrected Filing Receipt" dated 09 August 2006. No petition fee is due.

BACKGROUND

On 20 January 2003, applicants filed international application PCT/SG03/00011 which no claimed priority date. A copy of the international application, which included a copy of the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase, was communicated to the United States Patent and Trademark Office from the International Bureau on 05 August 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 20 July 2005.

On 08 October 2004, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; and a preliminary amendment. Applicant did not mark Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)."

On 08 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 08 October 2004 and a 35 U.S.C. 371 completion date of 08 October 2004.

On 06 April 2005, applicants filed "Request for Corrected Filing Receipt."

On 09 August 2006, applicants filed "Renewed Request for Corrected Filing Receipt."

DISCUSSION

A. Official Filing Receipt

Applicant states in their present request(s) that "the Official Filing Receipt for the above-identified application has the 35 U.S.C. 371(c) date listed as 08 October 2004, however, the declaration for this application was not filed until 04 March 2005." As stated above, the basic national, a copy of the international application, and an executed declaration furnished by the International Bureau under PCT Rules 4.17(iv) and 51bis.1(a)(iv) was received in the USPTO on 08 October 2004. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 04 March 2005 is not proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 08 October 2004. (See MPEP section 1893.03(b)).

B. Notification of Acceptance

The Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) indicates the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements and it also indicates the date of completion of all 35 U.S.C. 371 requirements. MPEP §1893.03(b) states that the date of completion of all 35 U.S.C. 371 requirements will be later than the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) when a request for early processing has not been requested prior to 30 months from the priority date. Here, applicants submitted the basic national fee; a copy of the international application; and an executed Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America on 08 October 2004 which are the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). However, applicant did not check Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)" and therefore, national stage processing or the date of completion of all 35 U.S.C. 371 requirements could not begin prior to 30 months from the international filing date,20 July 2005. Therefore, a corrected Notification of Acceptance will be issued which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 08 October 2004 and a 35 U.S.C. 371 completion date of 20 July 2005.

CONCLUSION

Applicant's request for a corrected filing receipt is **DISMISSED** without prejudice.

Applicants' request for the issuance of a corrected Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 is **GRANTED** in part.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 08 March 2004 is hereby **VACATED**.

The application has an international filing date of 20 January 2003 under 35 U.S.C. 363 and a date of **08 October 2004** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 08 October 2004 and a 35 U.S.C. 371 completion date of 20 July 2005.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

08 NOV 2005

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Eric Weierstall
Tangent Law Group
1201 Pennsylvania Avenue
Suite 300
Washington, D.C. 20004

In re Application of
LONG
U.S. Application No.: 10/510,647
PCT No.: PCT/US03/10857
Int. Filing Date: 09 April 2003
Priority Date: 10 April 2002
Attorney Docket No.: CM-020
For: VEHICLE DRIVE SYSTEM WITH ENERGY RECOVERY SYSTEM AND VEHICLE MOUNTING SAME

DECISION ON PETITION

UNDER 37 CFR 1.47(b)

This decision is in response to the applicant's "Petition Under 37 CFR 3.47 With Declaration And Fees" filed 26 August 2005 in the United States Patent and Trademark Office (USPTO). For the reasons discussed below, the petition is being treated as a petition under 37 CFR 1.47(b) to accept the application without the signature of inventor Thomas Long.

BACKGROUND

On 09 April 2003, applicant filed international application PCT/US03/10857 which claimed priority to an earlier U.S. application filed 10 April 2002. Pursuant to 37 CFR 1.495, the deadline for paying the full, U.S. Basic National Fee was set to expire at midnight on 10 October 2004.

On 08 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First preliminary amendment.

On 27 June 2005, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 26 August 2005, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(g); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Therefore, a review of the papers provided finds that applicant has satisfied items (1), (3) and (4).

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Presently, applicant has provided a statement from counsel that the "The assignee avers that it has, through its President Michael Fowler, taken and exhausted all diligent efforts to locate and obtain the signature of the inventor on the attached declaration. That the inventor is unavailable at this time." In order to proceed without Mr. Long's signature on the declaration, applicant is required to provided detailed information as to the "diligent effort" such as whether a search of telephone directories or Internet search engines were performed in an attempt to find a current address for the inventor, as well as, the circumstances of his unavailability. As shown, above this information should be provided by an individual with firsthand knowledge of the attempts to locate Mr. Long.

Regarding item (5), applicant's present petition references the inclusion of a copy of the relevant assignment document, however the paper was not included nor does a copy exist in the application file.

As to item (6), applicant states that failure to grant the petition will, "cause extreme hardship to the assignee and the inventor in the loss of patent rights in the above identified application." In order to satisfy item (6), applicant is also required to state that damage caused, i.e. the extreme hardship, would be irreparable.

For the reasons stated above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Eric Weierstall
Tangent Law Group
1201 Pennsylvania Avenue
Suite 300
Washington, D.C. 20004

In re Application of	:	
LONG	:	
U.S. Application No.: 10/510,647	:	DECISION ON RENEWED
PCT No.: PCT/US03/10857	:	
Int. Filing Date: 09 April 2003	:	PETITION UNDER
Priority Date: 10 April 2002	:	
Attorney Docket No.: CM-020	:	37 CFR 1.47(b)
For: VEHICLE DRIVE SYSTEM WITH ENERGY RECOVERY SYSTEM AND VEHICLE MOUNTING SAME	:	

This decision is in response to the applicant's "Further Response to Petition And Notice of Missing Parts" filed 27 December 2005 in the United States Patent and Trademark Office (USPTO). For the reasons discussed below, the petition is being treated as a renewed petition under 37 CFR 1.47(b) to accept the application without the signature of inventor Thomas Long.

BACKGROUND

On 08 November 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to accept the application without an executed declaration of inventor Thomas Long. Applicant was accorded two months to a request for reconsideration including either: 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by the inventor or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(b).

On 27 December 2005, applicant filed the response discussed herein.

DISCUSSION

The renewed petition under 37 CFR 1.47(b) is moot since the presently filed declaration has been executed by the previous non-signing inventor, Thomas Long. The filed declaration is acceptable under 37 CFR 1.497.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(b) is **DISMISSED** as **MOOT**.

The application has an international filing date of **09 April 2003** and will be given a date of **27 December 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

COPY MAILED

AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
PROUDFOOT et al.	:	LETTER REGARDING PATENT
Application No. 10/510,658	:	TERM ADJUSTMENT
Filed: May 18, 2005	:	
Attorney Docket No. ARS-104	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed February 7, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Applicants state that the patent term adjustment should be corrected from 212 days to zero (0) days.

The request for review of the determination of patent term adjustment is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants assert that the Office should not have been assessed a delay of 254 days under 37 CFR 1.702(a)(1). The application history has been reviewed and it has been determined that the determination of patent term adjustment under 35 U.S.C. 154(b) of 212 days is incorrect.

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment of patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

> (1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

The date of completion of all 35 U.S.C. 371 requirements is May 18, 2006. Therefore, the date of May 18, 2006, and not May 18, 2005, should be used for calculating adjustment of the patent term under 37 CFR 1.702(a)(1). On March 29, 2007, the Office mailed a Restriction Requirement to applicants within fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 (i.e. July 19, 2007). Accordingly, the period of adjustment under 37 CFR 1.702(a)(1) is zero (0) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **zero (0) days.**

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Tuesday
Date: 8/12/2008

PALM INTRANET

Time: 16:09:06

PTA Calculations for Application: 10/510658			
Application Filing Date:	05/18/2005	PTO Delay (PTO):	254
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	42
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-254		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	08/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		254	
53	02/04/2008	MAIL NOTICE OF ALLOWANCE			
52	01/31/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	01/28/2008	ISSUE REVISION COMPLETED			
50	01/28/2008	DOCUMENT VERIFICATION			
49	01/28/2008	NOTICE OF ALLOWABILITY			
48	12/20/2007	DATE FORWARDED TO EXAMINER			
47	12/12/2007	SUPPLEMENTAL RESPONSE		13	41
46	12/18/2007	DATE FORWARDED TO EXAMINER			
45	12/12/2007	SUPPLEMENTAL RESPONSE			
44	11/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	11/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	12/05/2007	DATE FORWARDED TO EXAMINER			
41	11/29/2007	RESPONSE AFTER NON-FINAL ACTION		29	38
40	11/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	11/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	07/31/2007	MAIL NON-FINAL REJECTION			
37	07/24/2007	NON-FINAL REJECTION			
36	11/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	06/19/2007	DATE FORWARDED TO EXAMINER			
34	06/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
33	05/14/2007	MAIL RESTRICTION REQUIREMENT			

32	05/11/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
31	05/02/2007	DATE FORWARDED TO EXAMINER			
30	04/30/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
29	03/29/2007	MAIL RESTRICTION REQUIREMENT	254		-1
28	03/26/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
27	01/04/2007	PG-PUB ISSUE NOTIFICATION			
26.7	11/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	11/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	10/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	04/21/2006	PRELIMINARY AMENDMENT			
22	05/18/2006	371 COMPLETION DATE			
21	10/02/2006	APPLICATION DISPATCHED FROM OIPE			
20	08/21/2006	ADDITIONAL APPLICATION FILING FEES			
19	08/21/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
18	08/24/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
17	07/07/2006	CLEARED BY OIPE CSR			
16	07/07/2006	CLEARED BY OIPE CSR			
15	07/07/2006	CLEARED BY OIPE CSR			
14	07/07/2006	CLEARED BY OIPE CSR			
13	07/07/2006	CLEARED BY OIPE CSR			
12	07/07/2006	CLEARED BY OIPE CSR			
11	04/03/2006	NOTICE OF DO/EO DEFECTIVE RESPONSE MAILED.			
9	05/18/2005	ADDITIONAL APPLICATION FILING FEES			
6	05/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
5	05/18/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	05/18/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	02/10/2006	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			

Search Another: Application# Search

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of :
DASSEN, Bernardus, et al :
Application No. 10/510,660 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. 246152023300 : FROM RECORD
:

This is a decision on the Request for Withdrawal as Attorney or Agent and Change of Correspondence Address under 37 C.F.R. § 1.36(b), filed August 30, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the firm of Morrison & Foerster LLP has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Nixon & Vanderhye PC
901 North Glebe road
11th Floor
Arlington, VA 22203

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of	:	
ARAZI et al.	:	
Application No.: 10/510,669	:	DECISION
PCT No.: PCT/IL03/00296	:	
Int. Filing Date: 08 April 2003	:	
Priority Date: 09 April 2002	:	
Attorney Docket No.: 06727/1200442-US1	:	
For: COMPUTERIZED TRADING SYSTEM AND METHOD USEFUL THEREFOR	:	

This decision is in response to applicants' "PETITION TO REVIVE IN RESPONSE TO NOTIFICATION OF ABANDONMENT DATED NOVEMBER 21, 2005" filed in the United States Patent and Trademark Office (USPTO) on 19 December 2005, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 08 April 2003, applicant filed international application PCT/IL03/00296, which designated the United States and claimed a priority date of 09 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 October 2004 (09 October 2004 being a Saturday and 11 October 2004 being a Federal holiday).

On 06 October 2004, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 30 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a two-month extendable period for reply.

On 21 November 2005, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DE/EO/909) indicating that the application was abandoned as to the United States of America for failure to reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 June 2005.

On 19 December 2005, applicants filed the instant submission, which has been treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a date-stamped postcard receipt and a copy of a declaration of the inventors.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 28 November 2005 applicant filed a declaration of the inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 28 November 2005 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 19 December 2005 is a copy of the declaration originally filed 28 November 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 19 December 2005 may properly be accepted as originally received in the USPTO on 28 November 2005. The NOTIFICATION OF ABANDONMENT mailed 21 November 2005 is hereby vacated.

The declaration filed 28 November 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 21 November 2005 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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Facsimile: (571) 273-0459

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20 SEP 2006

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of	
RAMIREZ, Rivio Arturo	
U.S. Application No.: 10/510,670	DECISION ON
PCT No.: PCT/BR03/00064	
Int'l Filing Date: 15 May 2003	PETITION
Priority Date: 17 May 2002	
Attorney's Docket No.: 04306/0201983-US0	UNDER 37 CFR 1.181
For: CENTRIFUGATION INJECTION MOLD	

Applicants filed "Request For Corrected Filing Receipt," on 28 April 2006, requesting that the Office change the 35 U.S.C. 371(c) date to 17 December 2004. The Request has been treated as a petition under 37 CFR 1.181.

As set forth in MPEP 1893.03(b), the filing date of a national phase of a PCT is the international filing date. The date that appears in the "filing or 371(c) date" field of the filing receipt is the date of completion of the 35 U.S.C. §371 (c) requirements. Applicants supplied an executed declaration of the inventors and completed the 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) requirements on 29 April 2005, as indicated. MPEP 1893.03(b). The "filing or 371(c) date" listed on the receipt is correct.

For the above reasons, the Petition Under 37 CFR 1.181 is **DISMISSED** without prejudice. Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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30 NOV 2006

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of :
RAMIREZ, Rivio Arturo :
U.S. Application No.: 10/510,670 : DECISION ON
PCT No.: PCT/BR03/00064 :
Int'l Filing Date: 15 May 2003 : PETITION
Priority Date: 17 May 2002 :
Attorney's Docket No.: 04306/0201983-US0 : UNDER 37 CFR 1.181
For: CENTRIFUGATION INJECTION :
MOLD :

Applicants filed "Request For Reconsideration," on 05 October 2006, requesting that the Office change the 35 U.S.C. 371(c) date to 17 December 2004. The Request has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 May 2003, applicants filed international application no. 10/510,670, claiming a priority date of 17 May 2002. A copy of the international application was transmitted to the Office by the International Bureau on 27 November 2003. The deadline for payment of the basic national fee in the United States was 17 November 2004.

On 06 October 2004, applicants filed a transmittal letter for entry into the national phase in the United States accompanied by the basic national fee.

On 15 April 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 29 April 2005, applicants submitted a declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and a postcard receipt for 17 December 2004.

On 03 October 2005, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 April 2005.

On 18 October 2005, 28 April 2006 and 23 August 2006, applicants submitted requests for corrected filing receipts asking that the 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) date be changed to 17 December 2005.

On 20 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.181 indicating that according to Office records the declaration completing the 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) requirements was received on 29 April 2005.

On 05 October 2006, applicants submitted this renewed petition with a copy of the 17 December 2004 postcard receipt and explaining that the declaration was submitted on 17 December 2004, originally.

DISCUSSION

The declaration that applicants claim to have submitted on 17 December 2004, is not present in the application. A petition to accept a copy of a what applicant claims was earlier submitted must be accompanied by a copy of the submission and proof of the earlier submission.

Applicants have provided a declaration, state that the declaration is a copy of the 17 December 2004 submission and have provided a postcard receipt date-stamped by the Office and listing the declaration. The copy of the declaration is accepted as having been received on 17 December 2004.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.181 for a corrected Notice of Acceptance is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 15 April 2005 is **VACATED**.

The Notice of Acceptance (Form PCT/DO/EO/903) mailed 03 October 2005 is **VACATED**.

This application is referred to the National Stage Processing Branch of the Division of PCT Operations for further action consistent with this decision, including mailing of a corrected Notice of Acceptance indicating that the application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 December 2004 and filing receipt.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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15 DEC 2006

Patrick J. Halloran
Aventis Pasteur, Inc.
Intellectual Property, Knerr Bldg.
One Discovery Drive
Swiftwater, PA 18370

In re Application of	:	
PARRINGTON, et al.	:	
Application No.: 10/510,677	:	
PCT No.: PCT/US03/10916	:	DECISION ON PETITION
Int. Filing Date: 09 April 2003	:	
Priority Date: 09 April 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: API-01-20-US	:	
For: MODIFIED CEA NUCLEIC ACID AND EXPRESSION VECTORS	:	

The petition to revive under 37 CFR 1.137(b) filed 04 August 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a diskette containing a computer readable form of the Sequence Listing free of any defects. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been previously satisfied.

The application has an international filing date of 09 April 2003 under 35 U.S.C. 363 and will be given a date of **06 October 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAR 21 2007

OFFICE OF PETITIONS

Applicant: Quinones et al
Appl. No.: 10/510,680
Filing Date: May 20, 2002
U.S. Patent No.: 7,192,978
Issue Date: March 20, 2007
Title: PYRROLIDINIUM DERIVATIVES
Attorney Docket No.: 09605.0003
Pub. No.: US 2005/0282875 A1
Pub. Date: December 22, 2005

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on February 22, 2006, for the above-identified application.

The request is DISMISSED as moot.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

Since the application has already issued as U.S. Patent No. 7,192,978 on March 20, 2007, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

In re application of
Bruce S. HALL
Application No. 10/510,691
Filed: October 08, 2004
For: SHRAPNEL CONTAINMENT SYSTEM
AND METHOD FOR PRODUCING SAME

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION AND COUNTER TERRORISM)

This is a decision on the petition filed on October 08, 2004 under 37 CFR 1.102(c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02 (VIII) or alternatively to make the above-identified application special on the basis of inventions for countering terrorism § 708.02 (XI).

The requirements for granting special status under section VIII are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The requirement for granting special status under section XI is: (A) a statement explaining how the invention contributes to countering terrorism.

With respect to the petition to make special under accelerated examination, the petition fails to adequately meet requirement (B) above. Item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required.

With respect to the petition to make special under counter terrorism, applicant's invention pertains to the protection of workers in a building in the event of an explosion as seen in the aftermath of recent terrorist attacks where buildings were targeted for destruction. Specifically, the main source of damage is not necessarily the initial blast of an impact but the flying shrapnel generated buy such an explosion. The present invention provides prefabricated wall panels that have been treated with an elastomeric material to create penetration resistant finished panels that can be fastened to existing walls of an office building etc.

Petitioner states that the exemplary embodiments of the invention claimed and disclosed would provide protection to the workers in a building in which the inventive panels are installed, and thereby counter, to a degree, the deadly effects of a terrorism attack upon a building.

These statements adequately explain how the invention contributes to countering terrorism. The requirement for special status under MPEP § 708.02 XI has been met, the petition is **GRANTED**.

Given the above grant of special status based upon countering terrorism, the petition based upon accelerated examination is **DISMISSED as MOOT**.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 03/02/06

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LAWRENCE HARBIN
MCINTYRE HARBIN & KING LLP
500 9TH STREET, S.E.
WASHINGTON DC 20003

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of

BERLIN, Kurt
Application No. 10/510,698
Filed: October 08, 2004
Attorney Docket No. **MHK-051-004**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 06, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PAUL N. KING**
KING PLLC
500 NINTH ST SE
WASHINGTON, DC 20003

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KING PLLC
500 NINTH STREET, SE
WASHINGTON, DC 20003

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JUN 09 2008

In re Application of	:	
BERLIN, Kurt	:	
Application No. 10/510,698	:	DECISION ON PETITION
Filed: October 08, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 01, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul N. King on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed March 19, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KURT BERLIN**
MARIENKAFEREWG 4
STAHNSDORF, GERMANY 14532

cc: **KRIEGSMAN & KRIESMAN**
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH, MASSACHUSETTS 01772

23 MAR 2005

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COMMISSIONER FOR PATENTS
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HOFFMAN WASSON & GITLER, P.C
CRYSTAL CENTER 2, SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON VA 22202-3843

In re Application of	:	
SCHLATTL et al.	:	
Application No.: 10/510,709	:	DECISION ON
PCT No.: PCT/DE03/00456	:	
Int. Filing Date: 14 February 2003	:	PETITION UNDER
Priority Date: 14 February 2002	:	
Attorney Docket No.: A-9246	:	37 CFR 1.137(b)
For: CATCH OR LOCKING ELEMENT	:	

This decision is in response to applicants' submission filed 15 October 2004.

BACKGROUND

On 14 February 2003, applicants filed international application PCT/DE03/00456 which designated the U.S. and claimed a priority date of 14 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 August 2004.

On 15 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the basic national fee, a declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 15 October 2004.

As to item (2), applicant submitted the petition fee on 15 October 2004.

As to item (3), petitioner's statement that the "entire delay between the filing deadline

and the submission of this Petition was unintentional" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 15 October 2004 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has been charged to Deposit Account 08-2455.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

22 SEP 2006

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Crowell & Moring LLP
Intellectual Property Group
PO Box 14300
Washington, DC 20044-4300

In re Application of	:	
BRAUN, Günter et al.	:	
Application No.: 10/510,740	:	DECISION ON
PCT No.: PCT/EP03/02673	:	
Int. Filing Date: 14 March 2003	:	PETITION
Priority Date: 11 April 2002	:	
Attorney's Docket No.: 095309.55468US	:	UNDER 37 CFR 1.182
For: METHOD AND EMBOSSING ...	:	
SHEET METAL	:	

This decision responds to "Reply to Notification of Defective Response," filed with the United States Patent and Trademark Office on 30 June 2005. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 05-1323, as authorized.

BACKGROUND

On 14 March 2003, applicant filed international application PCT/EP03/02673, claiming a priority date of 11 April 2002. A copy of the international application was transmitted to the Office by the International Bureau on 16 October 2003. The deadline for entry into the national stage in the United States was midnight 12 October 2004 (11 October 2004 was a holiday).

On 12 October 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 31 March 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 May 2005, applicant submitted a declaration of the inventors and the surcharge for late filing of the search fee, examination fee or the oath or declaration.

On 13 June 2005, the Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating, *inter alia*, that the name of an inventor on the declaration did not match the published international application, but documentation had not been provided.

On 30 June 2005, applicant submitted this petition under 37 CFR 1.182.

DISCUSSION

As set out in 37 CFR 1.41(a)(1), the inventorship in the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis.

The declaration is executed by Daniela Frank. The international application listed Daniela Seitz. When an inventor listed in the international application changes his or her name, a petition as described in MPEP 605.04(c) is required.

Applicants have supplied the fee for the petition under 37 CFR 1.182, a certificate showing the name change and a translation of the certificate of name change. This submission satisfies the requirements of MPEP 605.04(c).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Phase Processing Branch Division of PCT Operations for further processing. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 May 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

07 JUL 2005

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of :
SHIOMURA, Yasuro *et al* :
U.S. Application No.: 10/510,755 :
PCT No.: PCT/JP03/04667 :
Int. Filing Date: 11 April 2003 : **DECISION**
Priority Date: 12 April 2002 :
Attorney's Docket No.: Q84172 :
For: CONDUCTIVE ROLLER AND IMAGE :
FORMING APPARATUS :

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.182 to Correct an Inventor's Name" ("Pet.") filed 16 June 2005.

BACKGROUND

On 29 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was required.

On 05 May 2005, applicants filed a response which included the $130.00 surcharge fee and an executed declaration listing the first name of the first inventor differently than recorded on the international publication.

On 19 May 2005, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 05 May 2005 does not comply with 37 CFR 1.497(a) and (b) as the first inventor's name is different from the name on the published international application.

On 16 June 2005, applicant submitted a petition under 37 CFR 1.182 and a $400.00 petition fee.

DISCUSSION

Applicants submitted a petition under 37 CFR 1.182 pursuant to the guidance found in section 1893.01(e) of the MPEP. However, a petition is not required in this situation. Section 201.03 of the MPEP discusses these types of errors and states, in part:

> Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration.

In the instant response, applicants' declare that "the first name of the first listed inventor (i.e., SHIOMURA) was erroneously translated from Japanese to English in the published International Application PCT/JP03/04667 as being "Yasuaki." However, Applicants submit that the correct translation of the first listed inventor's first name is "Yasuro." Pet. at ¶ 4. Hence, applicants' claim that the name listed on the declaration filed 05 May 2005 for the first inventor is correct.

Applicants' explanation meets the requirements of the MPEP and is sufficient to explain the name difference between the declaration and the international publication.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** as **MOOT**.

The $400.00 petition fee has been credited back to Deposit Account No. 19-4880 as authorized.

The declaration filed 05 May 2005 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 April 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 05 May 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

05 AUG 2005

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Zainea Liviu-Nikolae
14 Peresiadou St., TK11141
Athens
GREECE

In re Application of	:	
LIVIU-NIKOLAE, Zainea	:	
Application No.: 10/510,760	:	DECISION ON
PCT No.: PCT/GR03/00016	:	
Int. Filing Date: 15 May 2003	:	PETITION
Priority Date: 21 May 2002	:	
Attorney Docket No.: None	:	UNDER 37 CFR 1.181
For: WIDEBAND SOUND DIFFUSER ...	:	
METHODS MOUNTING IT	:	

This decision is in response to applicant's request to withdraw the abandonment, filed in the United States Patent and Trademark Office on 27 May 2005.

BACKGROUND

On 15 May 2003, applicant filed international application PCT/GR03/00016. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 November 2003. The deadline for entry into the national stage in the United States was 21 November 2004.

On 12 October 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, a check for $460.

On 12 April 2005, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely pay the basic national fee.

On 27 May 2005, applicant made a submission contesting the holding of abandonment and submitted an additional $290.

DISCUSSION

The basic national fee, as of 01 October 2004 until 08 December 2004, for a small entity with an EPO or JPO search report, was $475. Applicant paid $460, which was not enough to satisfy the basic national fee. When the complete payment was not received by 21 November 2004, the application went abandoned for failure to pay the basic national fee. As such, the Notification of Abandonment was proper.

To revive this application, applicant may wish to consider filing a petition to revive under 37 CFR 1.137(b). The form for this petition is included with this decision. The fee for revival for a small entity is currently $750. The proper reply is the basic national fee, which is currently $150. Applicant also must furnish the search fee, $200, the examination fee, $100, a declaration of inventorship and the fee for late furnishing of the search fee, examination fee or declaration, $130, but these fees and declaration are not required to revive the application. Applicant has currently furnished $750.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Enclosure: Petition For Revival Under 37 CFR 1.137(b) (Form PTO/SB/64/PCT)

PTO/SB/64/PCT (12-04)
Approved for use through 03/31/2007. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First Named Inventor:

International (PCT) Application No.:

U.S. Application No.: (if known)

Filed:

Title:

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee
(2) Proper reply
(3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee $_____(37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee $_____(37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____	_____
Signature	Date
_____	_____
Typed or Printed Name	Registration Number, if applicable
_____	_____
Address	Telephone Number
_____	
Address	

Enclosures:
☐ Response
☐ Fee Payment
☐ Terminal Disclaimer
☐ Other (please identify):

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

01 SEP 2005

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Zainea Liviu-Nikolae
14 Peresiadou St., TK11141
Athens
GREECE

In re Application of	:	
LIVIU-NIKOLAE, Zainea	:	
Application No.: 10/510,760	:	DECISION ON
PCT No.: PCT/GR03/00016	:	
Int. Filing Date: 15 May 2003	:	PETITION
Priority Date: 21 May 2002	:	
Attorney Docket No.: None	:	UNDER 37 CFR 1.137(b)
For: WIDEBAND SOUND DIFFUSER ...	:	
METHODS MOUNTING IT	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 18 August 2005 is **GRANTED**.

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies 37 CFR 1.137(b)(3). The petition fee and basic national fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and surcharge for late filing of the oath or declaration are required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Georg Mayer et al.	:	
Application No. 10/510,762	:	DECISION ON PETITION
Filed: October 12, 2004	:	TO WITHDRAW
Attorney Docket No. 449122077300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
Peter Schneider :
Application No. 10/510,763 : DECISION ON PETITION
Filed: May 10, 2005 : TO WITHDRAW
Attorney Docket No. 449122077200 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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#6

09 JAN 2006

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United States Patent and Trademark Office
Washington, D.C. 20231
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Richard R. Michaud
McCormick, Paulding & Huber, LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

In re Application of	:	
SMITH, et al.	:	DECISION ON PETITION
Serial No.: 10/510,777	:	
PCT No.: PCT/CA03/00519	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 08 April 2003	:	
Priority Date: 08 April 2002	:	
Atty Docket No.: 7624-0001WOUS	:	
For: AUTOMATED TISSUE ENGINEERING SYSTEM	:	

This decision is in response to applicant's "Petition to The Director Under 37 C.F.R. § 1.47(a)" filed 29 September 2005 to accept the application without the signature of inventor Marty Pecaric.

BACKGROUND

On 08 April 2003, applicant filed international application PCT/CA03/00519 which claimed priority to a previous Canadian application filed 08 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 October 2004.

On 08 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; an Application Data Sheet and an Information Disclosure Statement.

On 27 April 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 29 September 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Marty Pecaric accompanied by a petition for a three-month extension of time and payment of the appropriate extension of time fee. With

the filing of the extension of time petition and payment of the extension fee, the present petition is considered timely filed. It is noted that applicant has provided $130.00 as the petition fee for the petition under 37 CFR 1.47(a). The correct petition fee is $200.00. The remaining $70.00 will be charged to deposit account no.: 13-0235 as authorized.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items1, 3 and 4.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature." 409.03(d) also states that:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

In the present case, Ms. Tanner states that after locating Mr. Pecaric through the internet and leaving various voice mails at his consulting firm she mailed a copy of the application papers, and a declaration to Mr. Pecaric at his office address on 14 September 2005. A review of the FedEx tracking printout shows that the package was accepted without signature on 15 September 2005. While it appears from the provided evidence that Ms. Tanner has located the missing inventor, it is not 100 percent certain and thus it is not possible to grant applicant's petition at this time. Mr. Pecaric's silence can not be constituted as a refusal in the immediate circumstances as it is unclear whether he personally received the papers since they were mailed to his corporate office and received without signature. In cases where it is argued that the non-action of an inventor should be considered a refusal to cooperate it is especially important to provide a showing that the papers in question were received by the actual nonsigning inventor. Therefore, it is recommended that 37 CFR 1.47(a) papers be mailed to the nonsigning inventor's last known address. In

addition, the papers were delivered on 15 September 2005 and the present petition mailed on 27 September 2005. Even assuming that the non-signing inventor in this case is the Marty Pecaric working at Contrail Consulting Services, this is not enough time to assure that Mr. Pecaric received the papers, reviewed them and made a decision not to return a signed declaration. The MPEP explains that "The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47."

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	
SMITH, et al.	DECISION ON RENEWED
Serial No.: 10/510,777	
PCT No.: PCT/CA03/00519	PETITION UNDER
Int. Filing Date: 08 April 2003	
Priority Date: 08 April 2002	37 CFR 1.47(a)
Atty Docket No.: 7624-0001WOUS	
For: AUTOMATED TISSUE ENGINEERING SYSTEM	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(a)" filed 04 August 2005 to accept the application without the signature of joint inventor Martin R. Pecaric.

BACKGROUND

On 09 January 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file a request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 26 January 2006, applicant filed the present renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

Applicant has presently provided sufficient evidence regarding the refusal of Mr. Pecaric to execute an oath or declaration to satisfy the remaining issue from the decision of 09 January 2006. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 08 April 2003 under 35 U.S.C. 363, and will be given a date of **29 September 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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16 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Dr. Martin Pecaric, Ph.D.
49 Westminster Avenue
Toronto, ON M6R 1N3
CANADA

In re Application of
SMITH, et al.
Serial No.: 10/510,777
PCT No.: PCT/CA03/00519
Int. Filing Date: 08 April 2003
Priority Date: 08 April 2002
Atty Docket No.: 7624-0001WOUS
For: AUTOMATED TISSUE ENGINEERING SYSTEM

Dear Dr. Pecaric:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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2 5 MAR 2008

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR NY 10510

In re Application of	:	
Penna et al.	:	
Application No.: 10/510,786	:	
PCT No.: PCT/IB03/01347	:	
Int. Filing Date: 03 April 2003	:	DECISION
Earliest Priority Date: 15 April 2002	:	
Attorney Docket No.: GB020043	:	
For: Terminal	:	

This is in response to the request for corrected filing receipt filed on 06 September 2005.

BACKGROUND

International application PCT/IB03/01347 was filed on 03 April 2003, claimed an earliest priority date of 15 April 2002, and designated the United States. The International Bureau communicated a copy of the published international application to the USPTO on 23 October 2003. The 30-month period for payment of the basic national fee in the U.S. expired as of midnight on 15 October 2004. A basic national fee was paid in application no. 10/510,786 on 12 October 2004.

On 07 April 2005, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to counsel, indicating a 35 U.S.C. 371(c)(1), (2) and (4) date of 12 October 2004 and showing this application to be the national stage under 35 U.S.C. 371 of international application PCT/IB03/01345.

DISCUSSION

As a preliminary matter, treatment of the correspondence filed on 02 May 2006 is being held in abeyance at this time, pending resolution of the status of this application as discussed below.

Review of the correspondence filed on 12 October 2004 reveals ambiguity as to which international application was intended to enter the national stage. The Transmittal Letter is directed to international application no. PCT/IB03/01345, but the international filing date, priority date, title and inventors shown on the Transmittal Letter correlate to those found instead in PCT/IB03/01347. Likewise, the declaration of the inventors is directed to PCT/IB03/01345, but names and is signed by inventors nominated in PCT/IB03/01347.

Review of the request for corrected filing receipt filed on 06 September 2005 suggests that applicants may have intended this application to be the national stage entry in the United States of PCT/IB03/01347. However, in view of the fact that the Transmittal Letter and declaration filed on 12 October 2004 are both directed instead to PCT/IB03/01345, it is not adequately clear which international application was intended to enter the national stage in the United States. A proper petition under 37 CFR 1.182 (and associated petition fee) is required in order to resolve this ambiguity.

In view of the discrepancy noted above, the Notice of Acceptance mailed on 07 April 2005 is hereby **VACATED**.

CONCLUSION

Applicants have **TWO (2) MONTHS** from the mailing date of this decision, extendable under 37 CFR 1.136(a), to file a response clarifying the status of the papers submitted on 12 October 2004.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
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22 JUL 2008

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BRIARCLIFF MANOR NY 10510

In re Application of	:	
Penna et al.	:	
Application No.: 10/510,786	:	
PCT No.: PCT/IB03/01347	:	
Int. Filing Date: 03 April 2003	:	DECISION
Earliest Priority Date: 15 April 2002	:	
Attorney Docket No.: GB020043	:	
For: Terminal	:	

This is in response to the petition under 37 CFR 1.182 filed on 27 May 2008.

DISCUSSION

In a Decision mailed on 25 March 2008, the correspondence filed on 06 September 2005 was treated as follows:

> Review of the correspondence filed on 12 October 2004 reveals ambiguity as to which international application was intended to enter the national stage. The Transmittal Letter is directed to international application no. PCT/IB03/01345, but the international filing date, priority date, title and inventors shown on the Transmittal Letter correlate to those found instead in PCT/IB03/01347. Likewise, the declaration of the inventors is directed to PCT/IB03/01345, but names and is signed by inventors nominated in PCT/IB03/01347.
>
> Review of the request for corrected filing receipt filed on 06 September 2005 suggests that applicants may have intended this application to be the national stage entry in the United States of PCT/IB03/01347. However, in view of the fact that the Transmittal Letter and declaration filed on 12 October 2004 are both directed instead to PCT/IB03/01345, it is not adequately clear which international application was intended to enter the national stage in the United States. A proper petition under 37 CFR 1.182 (and associated petition fee) is required in order to resolve this ambiguity.

In response, applicants have filed the instant petition under 37 CFR 1.182, which explains that "On October 12, 2004, applicant filed a National Stage application which inadvertently referred to PCT/IB03/01345. The error occurred without deceptive intention on applicant's part. Applicants intended this application to be the national stage entry of the United States of PCT/IB03/01347." In view of the totality of the evidence now of record, it would be appropriate to accept petitioner's statement that this application is the entry under 35 U.S.C. 371 of international application PCT/IB03/01347. It is noted that the declaration of the inventors of record is defective in that it identifies the wrong international application number. An oath or declaration compliant with 37 CFR 1.497(a) and (b) is required.

Regarding the petition under 37 CFR 1.137(b) filed on 02 May 2006, said petition is MOOT with respect to the issues addressed in this decision. To the extent that this application may be regarded as having later become abandoned for failure to an Office action from the

Technology Center, petitioner may wish to consider filing a petition for revival addressing those issues, and directed to the Technology Center for consideration.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the Office of Patent Application Processing for further processing as the national stage of PCT/IB03/01347. This processing will include the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration identifying the correct international application, and otherwise in compliance with 37 CFR 1.497(a) and (b), as well as the surcharge under 37 CFR 1.492(h).

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#3

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1900 East Ninth Street
Cleveland, OH 44114

In re Application of	:	
MISSIO et al	:	
Application No.: 10/510,791	:	
PCT No.: PCT/EP03/03697	:	
Int. Filing Date: 09 April 2003	:	DECISION
Priority Date: 09 April 2002	:	
Atty. Docket No.: ARTHP109US	:	
For: 4,5,6,7-TETRAHYDROBENZO[B] THIOPHENE DERIVATIVES...	:	

This is a decision on applicants' "EXPLANATION OF RULE 497 INVENTORRSHIP PAPERS" filed in the U.S. Patent and Trademark Office (USPTO) on 08 October 2004, which has been treated as a request to add additional inventors under 37 CFR 1.497(d).

BACKGROUND

On 09 April 2003, applicants filed international application No. PCT/EP03/03697 which claimed a priority date of 09 April 2002, and which designated the United States. The 30 month deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was set to expire on 09 October 2004.

On 08 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: the basic national fee, the present request under 37 CFR 1.497(d), statements by the additional inventors, and a declaration of the inventors.

DISCUSSION

Under 37 CFR 1.497(d) a request to add or delete an inventor must be accompanied by: (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) The processing fee set forth in § 1.17(i); (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and (4) Any new oath or declaration required by 37 CFR 1.497(f). Applicants have satisfied items (1) and (2).

With respect to item (2) above, the requisite fee of $130 has been charged to counsel's deposit account as authorized in the Transmittal Letter filed 08 October 2004.

With regard to item (3), a review of the application file reveals that applicants have not submitted a statement of assent of the assignee or, in the alternative, a statement that there is no assignee. Any statement of assent must be accompanied by either a copy of the assignment or an indication where such has been recorded in the USPTO.

Regarding item (4) above, a review of the declaration of the inventors filed with the present request reveals that it is unacceptable. Specifically, the declaration appears to be a composite of several separately executed declarations in that it contains two (2) copies each of page 2 of 4 and page 3 of 4. Copies of each complete declaration as executed must be filed. Further, the declaration has apparently not been signed by inventor Koul.

In that items (3) and (4) cannot be said to have been satisfied, the request to add inventors may not be properly granted at this time.

CONCLUSION

For the reasons above, the petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional fee is required.

A proper response must include a statement of assent of the assignee and an acceptable declaration of the inventors as discussed above. In the alternative, applicants may also file a showing that the requested change was made by the International Bureau in the International Application under PCT Rule 92*bis* prior to the filing of the present national stage papers.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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#5

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06 JAN 2006

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Cleveland, OH 44114

In re Application of :
MISSIO et al :
Application No.: 10/510,791 :
PCT No.: PCT/EP03/03697 :
Int. Filing Date: 09 April 2003 : DECISION
Priority Date: 09 April 2002 :
Atty. Docket No.: ARTHP109US :
For: 4,5,6,7-TETRAHYDROBENZO[B] :
THIOPHENE DERIVATIVES... :

This is a decision on applicants' "RENEWED REQUEST UNDER C.F.R. 1.497(d)" filed in the U.S. Patent and Trademark Office (USPTO) on 29 August 2005.

BACKGROUND

On 09 April 2003, applicants filed international application No. PCT/EP03/03697 which claimed a priority date of 09 April 2002, and which designated the United States. The 30 month deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was set to expire on 09 October 2004.

On 08 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: the basic national fee, an initial request under 37 CFR 1.497(d), statements by the additional inventors, and a declaration of the inventors.

On 24 March 2005, this Office mailed a decision dismissing the request under 37 CFR 1.497(d) on the grounds that applicants had failed to provide the written consent of the assignee; and an acceptable oath or declaration required by 37 CFR 1.497(f).

On 29 August 2005, applicants filed the present renewed request which was accompanied by, *inter alia*, a declaration of the inventors, a "WRITTEN ASSENT OF ASSIGNEE PER 37 CFR 1.497(d)", and documents in support of the assent of the assignee. The request also included a petition for acceptance of the application under 37 CFR 1.47(a) on the grounds that

one of the joint inventors, Gerald Bacher, refuses to execute the application. This petition was accompanied by a declaration of Bernhard Virnekas.

DISCUSSION

37 CFR 1.497(d)

As set forth in the previous decision, under 37 CFR 1.497(d) a request to add or delete an inventor must be accompanied by: (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) The processing fee set forth in § 1.17(i); (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and (4) Any new oath or declaration required by 37 CFR 1.497(f). Applicants previously had satisfied items (1) and (2).

With regard to item (3), a review of the application file reveals that applicants still have not submitted an acceptable statement of assent of the assignee. The statement of David Bancroft is not in compliance with 37 CFR 3.73 in that it does not positively establish ownership of 100% of the invention. Further, it has not been accompanied by acceptable evidence of the chain of title. Contrary to applicants' assertion, the request was not accompanied by a copy of the assignment of the rights to the invention from the inventors to Axxima. Further, applicants have submitted three exhibits in support of the chain of title, but have not submitted translations of said exhibits. Finally, applicants have not submitted proof of the ownership of GPC Biotech Forschungsgesellschaft mbH by GPC Biotech AG.

Regarding item (4) above, a review of the declaration of the inventors filed with the present request reveals that it is unacceptable at this time in that applicants petition under 37 CFR 1.47(a) cannot be granted as discussed below.

In that items (3) and (4) still cannot be said to have been satisfied, the request to add inventors may not be properly granted at this time.

37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicants have satisfied items (1), (3) and (4) above.

With regard to item (1), the requisite petition fee is currently $200, and as such the additional $70 has been charged to counsel's deposit account, No. 50-1063, as authorized in the present request.

Concerning item (2) above, section 409.03(d) of the Manual Of Patent Examining Procedure (MPEP), under the heading "REFUSAL TO JOIN" states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted...
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the application file reveals that item (2) cannot be said to have been satisfied at this time in that the "DECLARATION" of Bernhard Virnekas is insufficient. Specifically, the statement does not establish that a copy of the application papers has been presented to Mr. Bacher, nor does the declaration set forth any of the specific facts (e.g., times, dates, types of contact, etc.) with regard to the attempts to contact Mr. Bacher. Therefore, the petition under 37 CFR 1.47(a) may not be properly granted at this time.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) and the petition under 37 CFR 1.47(a) are **DISMISSED** without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d) and Renewed Petition Under 37 CFR 1.47(a)". No additional fee is required.

With regard to the request under 37 CFR 1.497(d), a proper response must include an acceptable statement of assent of the assignee and evidence of chain of title as discussed above. With regard to the request under 37 CFR 1.47(a), a proper response must include either an acceptable showing that Mr. Bacher refuses to execute the application as discussed above or a declaration executed by all of the inventors.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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28 SEP 2006

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#7

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In re Application of	:	
MISSIO et al	:	
Application No.: 10/510,791	:	
PCT No.: PCT/EP03/03697	:	
Int. Filing Date: 09 April 2003	:	DECISION
Priority Date: 09 April 2002	:	
Atty. Docket No.: ARTHP109US	:	
For: 4,5,6,7-TETRAHYDROBENZO[B] THIOPHENE DERIVATIVES...	:	

This is a decision on applicants' "SECOND RENEWED REQUEST UNDER C.F.R. 1.497(d)" filed in the U.S. Patent and Trademark Office (USPTO) on 10 July 2006.

BACKGROUND

On 29 August 2005, applicants filed a renewed request which was accompanied by, *inter alia*, a declaration of the inventors, a "WRITTEN ASSENT OF ASSIGNEE PER 37 CFR 1.497(d)", and documents in support of the assent of the assignee. The request also included a petition for acceptance of the application under 37 CFR 1.47(a) on the grounds that one of the joint inventors, Gerald Bacher, refuses to execute the application. This petition was accompanied by a declaration of Bernhard Virnekas.

On 06 January 2006, this Office issued a decision dismissing both requests.

On 10 July 2006, applicants filed the present second renewed request. The request was accompanied by a declaration executed by all named inventors and a further statement by Bernhard Virnekas.

DISCUSSION

37 CFR 1.47(a)

The in view of the declaration apparently executed by all inventors, the previously filed petition under 37 CFR 1.47(a) is now dismissed as moot.

37 CFR 1.497(d)

As set forth in the previous decision, under 37 CFR 1.497(d) a request to add or delete an inventor must be accompanied by: (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) The processing fee set forth in § 1.17(i); (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and (4) Any new oath or declaration required by 37 CFR 1.497(f). Applicants previously had satisfied items (1) and (2).

With regard to item (3), a review of the application file reveals that applicants still have not submitted an acceptable statement of assent of the assignee. Specifically, the present statement of Bernhard Virnekas has not been accompanied by acceptable evidence of the chain of title. Contrary to Mr. Virnekas's assertion, the request was not accompanied by a copy of the assignment of the rights to the invention from the inventors to Axxima, nor does Mr. Virnekas's statement indicate the location of the assignment (reel and frame number) as recorded in the USPTO. Further, with regard to the exhibits in support of the chain of title, they have not been found to be adequate. Specifically, regarding exhibit D, applicants assert that the exhibit evidences the ownership of GPC Biotech Forschungsgesellschaft mbH by GPC Biotech AG. However, a review of the exhibit reveals that there is no mention of GPC Biotech AG, and as such it cannot be seen how the document evidences such ownership.

Regarding item (4) above, a review of the declaration of the inventors filed with the present request reveals that it is unacceptable at this time in that, due to poor photocopy quality, portions of the declaration are illegible.

In that items (3) and (4) still cannot be said to have been satisfied, the request to add inventors may not be properly granted at this time.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Third Renewed Request Under 37 CFR 1.497(d)". No additional fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

#9

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29 AUG 2007

Gregory Turocy
Amin & Turocy, LLP
24th Floor, National City Center
1900 East Ninth Street
Cleveland, OH 44114

In re Application of
MISSIO et al
Application No.: 10/510,791
PCT No.: PCT/EP03/03697
Int. Filing Date: 09 April 2003
Priority Date: 09 April 2002
Atty. Docket No.: ARTHP109US
For: 4,5,6,7-TETRAHYDROBENZO[B] THIOPHENE DERIVATIVES...

DECISION

This is a decision on applicants' "THIRD RENEWED REQUEST UNDER C.F.R. 1.497(d)" filed in the U.S. Patent and Trademark Office (USPTO) on 29 March 2007.

BACKGROUND

On 28 September 2006, this Office issued a decision dismissing applicants' renewed request to correct the inventorship in the application. The request was dismissed on the grounds that applicants had failed to provide an acceptable written consent of the assignee and an acceptable oath or declaration required by 37 CFR 1.497(f)

On 29 March 2007, applicants filed the present third renewed request. The request was accompanied by further documents in support of the written consent of the assignee and a new copy of the previously filed declaration of the inventors.

DISCUSSION

As set forth in the previous decision, under 37 CFR 1.497(d) a request to add or delete an inventor must be accompanied by: (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) The processing fee set forth in § 1.17(i); (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter); and (4) Any new oath or declaration required by 37 CFR 1.497(f). Applicants previously had satisfied items (1) and (2).

With regard to item (3), a review of the application file reveals that applicants have now satisfied the requirements for an acceptable statement of assent of the assignee.

Regarding item (4) above, a review of the copy of declaration of the inventors filed with the present request reveals that due to poor photocopy quality, portions of the declaration are still illegible. Specifically, portions of the identifying information for the first and second inventors if illegible. Additionally, it is noted that the declaration appears to be a composite of multiple declarations. Specifically, the declaration appears to be the combination of page 2 of a declaration executed by the first and second inventors and pages 1, 3, and 4 of a declaration executed by the remaining inventors. Applicants must submit either a single complete declaration executed by all of the inventors or a complete copy of each separately executed declarations. For the above reasons the declaration of the inventors is still unacceptable at this time, and as such item (4) still cannot be said to have been satisfied at this time.

In that item (4) still cannot be said to have been satisfied, the request to add inventors may not be properly granted at this time.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Third Renewed Request Under 37 CFR 1.497(d)". No additional fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

05 JUN 2008

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Gregory Turocy
Amin & Turocy, LLP
24th Floor, National City Center
1900 East Ninth Street
Cleveland, OH 44114

In re Application of	:	
MISSIO et al	:	
Application No.: 10/510,791	:	
PCT No.: PCT/EP03/03697	:	
Int. Filing Date: 09 April 2003	:	DECISION
Priority Date: 09 April 2002	:	
Atty. Docket No.: ARTHP109US	:	
For: 4,5,6,7-TETRAHYDROBENZO[B] THIOPHENE DERIVATIVES...	:	

This is a decision on applicants' "FOURTH RENEWED REQUEST UNDER C.F.R. 1.497(d)" filed in the U.S. Patent and Trademark Office (USPTO) on 22 January 2008. The petition is **GRANTED** as discussed below.

On 29 August 2007, this Office mailed a decision dismissing the request under 37 CFR 1.497(d) on the grounds that applicants had failed to provide an acceptable oath or declaration required by 37 CFR 1.497(f).

On 22 January 2008, applicants filed the present renewed request which was accompanied by, *inter alia*, a declaration of the inventors.

A review of the application file reveals that the declaration of the inventors is acceptable, and as such the petition to add inventors under 37 CFR 1.497(d) may now be granted. The application has an international filing date of 09 April 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **22 January 2008**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

13 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Kirschstein Ottinger Israel & Schiffmiller
489 Fifth Avenue
New York NY 10017

In re Application of	:	
FELLA	:	
U.S. Application No.: 10/510,796	:	DECISION ON PETITION
PCT No.: PCT/IB03/01949	:	
Int. Filing Date: 30 April 2003	:	37 CFR 1.181
Priority Date: 30 April 2002	:	
Attorney Docket No.: P/63674	:	
For: OPTICAL FIBER AMPLIFICATION SYSTEM	:	

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR §1.181" filed 26 June 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/IB03/01949, which claimed priority of an earlier application filed 30 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 November 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 October 2004.

On 07 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a first preliminary amendment and an Information Disclosure Statement.

On 08 March 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

On 06 June 2006, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 08 March 2005 within the time period set therein and that above-identified application was abandoned as to the United States.

On 26 June 2006, applicant filed the petition considered herein.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied all items listed above showing that the Form PCT/DO/EO/905 mailed 08 March 2005 was not received. As such, it is proper to grant applicant's petition at this time. In addition, applicant's present filing contains a compliant declaration and power of attorney executed by the inventor. Thus, all of the 35 U.S.C. 371 requirements have been satisfied.

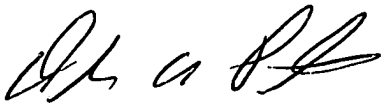
CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment mailed 06 June 2006 is hereby **VACATED**.

The application has an international filing date of 30 April 2003 under 35 U.S.C. 363 and will be given a date of **26 June 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a filing receipt indicating the 371 date as detailed above.



Derek A. Putonen
Attorney Advisor
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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Young Tae Lee :
Application No. 10/510,806 : DECISION ON PETITION
Filed: October 6, 2004 : TO WITHDRAW
Attorney Docket No. CHU-04US031 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were appointed by customer number. Practitioners must withdraw in the same manner by which they were appointed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: INZISOFT, CO. LTD
7 F SAMBONG BLDG.
720-20, YEOKSAM-DONG, GANGNAM-GU
SEOUL 135-920 REP OF KOREA

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JUL 27 2009

OFFICE OF PETITIONS

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of
Young Tae Lee
Application No. 10/510,806
Filed: October 6, 2004
Attorney Docket No. CHU-04US031

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Laurence A. Greenberg on behalf of all attorneys of record who are associated with customer No. 24131. All attorneys/agents associated with the Customer Number 24131 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The application became abandoned for failure to timely reply to the outstanding Office action mailed November 26, 2008.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: INZISOFT, CO. LTD
7 F SAMBONG BLDG.
720-20, YEOKSAM-DONG, GANGNAM-CU
SEOUL 135-920 REP OF KOREA

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/510,806	02/05/2007	Young Tae Lee	CHU-04US031

CONFIRMATION NO. 6313

POWER OF ATTORNEY NOTICE

24131
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

Date Mailed: 07/20/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/08/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

19 JUL 2005
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BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of GUICHARD et al	:	
U.S. Application No.: 10/510,818	:	
PCT Application No.: PCT/FR03/01151	:	
Int. Filing Date: 11 April 2003	:	
Priority Date Claimed: 12 April 2002	:	DECISION
Attorney Docket No.: 022702-108	:	
For: SILOXANE-BASED COMPOSITION, WHICH DOES OT EMIT HYDROGEN, INTENDED FOR MOLDING/MOLD-RELEASE OF PNEUMATIC TIRES	:	

This is in response to the correspondence filed 29 June 2005, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 April 2003, applicant filed international application PCT/FR03/01151, which claimed priority of an earlier France application filed 12 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 12 October 2004.

On 12 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2005, applicant filed the present request for status under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 29 June 2005 is not in compliance with 37 CFR 1.497(b)(2) because it does not identify the citizenship of Laure Montarnal, who is one of the legal representatives of deceased inventor Serge Montarnal. Applicant is advised that a declaration may not be amended after it has been signed. See MPEP 602.01.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a), but the response deadline may not be extended beyond the response deadline for the Notification of Missing Requirements mailed 30 March 2005. Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

11 OCT 2005

#9

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ALEXANDRIA, VA 22313-1404

In re Application of GUICHARD et al :
U.S. Application No.: 10/510,818 :
PCT Application No.: PCT/FR03/01151 :
Int. Filing Date: 11 April 2003 :
Priority Date Claimed: 12 April 2002 : DECISION
Attorney Docket No.: 022702-108 :
For: SILOXANE-BASED COMPOSITION, :
WHICH DOES OT EMIT HYDROGEN, :
INTENDED FOR MOLDING/MOLD- :
RELEASE OF PNEUMATIC TIRES :

This is in response to the "Response to Communication Mailed July 19, 2005" filed 19 September 2005, which is being treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 11 April 2003, applicant filed international application PCT/FR03/01151, which claimed priority of an earlier France application filed 12 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 12 October 2004.

On 12 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2005, applicant filed a request for status under 37 CFR 1.42.

On 19 July 2005, this Office mailed a decision dismissing the 29 June 2005 request for status.

On 19 September 2005, applicant filed the present renewed request for status under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 19 September 2005 is in compliance with 37 CFR 1.42 and 1.497.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 11 April 2003, and a date under 35 U.S.C. 371(c) of 19 September 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

Applicant: Solomon
Appl. No.: 10/510,820
International Filing Date: April 14, 2003
Title: PREVENTION OF BRAIN INFLAMMATION AS A RESULT OF INDUCED AUTOIMMUNE RESPONSE
Attorney Docket No.: SOLOMON7A
Pub. No.: US 2006/0008458 A1
Pub. Date: January 12, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 1, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **complete copies of the publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/510,820	08/22/2005	1649	460	SOLOMON7A		11	2

CONFIRMATION NO. 1692

CORRECTED FILING RECEIPT

OC000000022677319

1444
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Date Mailed: 02/28/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Beka Solomon, Herzilia Pituach, ISRAEL;

Assignment For Published Patent Application

Ramot AT Tel Aviv University Ltd., Tel Aviv, ISRAEL

Power of Attorney: The patent practitioners associated with Customer Number **1444**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/11316 04/14/2003
which claims benefit of 60/371,719 04/12/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/27/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/510,820

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Prevention of brain inflammation as a result of induced autoimmune response

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

COPY MAILED

MAY 0 1 2008

OFFICE OF PETITIONS

In re Application of :
KURZMANN, et al. :
Application No. 10/510,825 : DECISION ON PETITION
Filed: August 19,2005 : TO WITHDRAW
Attorney Docket No. **118744-165** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on August 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL, BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-12-08

Paper No.: _____

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/510835 Patent No.: 7414068

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should € OFC be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Emma Yount
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments:

The proposed corrections are denied because the additional claims are new matter that was not examined during prosecution. Applicants cannot add new, unexamined claims through a certificate of correction. Therefore, the COC is denied.

/Joseph K. McKane/
SPE

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : November 20, 2009

Patent No. : 7,414,068 B2
Patent Issued : Aug. 19, 2008
Docket No. : 26393U
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s)1.322 .

The alleged error(s) The proposed corrections are denied because the additional claims are new matter that was not examined during prosecution. Applicants cannot add new, unexamined claims through a certificate of correction. Therefore, the COFC is denied. the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 756-1542

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Koichi Yamaguchi et al :
Application No. 10/510,850 : DECISION ON PETITION
Filed: July 13, 2005 :
Attorney Docket No 101-000110US :

This is a decision on the petition, filed July 22, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and a petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED.**

This application was held abandoned for failure to timely pay the issue and publication fees on or before June 24, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 24, 2008.

The PTOL-85 Fee Transmittal received on April 7, 2008 box 4b was not check and the Deposit Account No. 50-0417 was not provided. However, Office record show a general fee authorization to charge any additional fees which may be required to deposit Account No 50-0417 was filed in the PTO-1390 form transmittal letter on October 13, 2004. Accordingly, this application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition under 37 CFR 1.137(b) is **DISMISSED.**

The $1540 received with the petition on July 22, 2008 is unnecessary and will be credit to petitioner's deposit account number 50-0417.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of :
Dirk Inze, et al. :
Application No. 10/510,871 : DECISION ON PETITION
Filed: October 8, 2004 : TO WITHDRAW
Attorney Docket No. 4559-045163 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to The Webb Law Firm, PC has been revoked by the assignee of the patent application on April 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BARBARA E. JOHNSON – ATTORNEY AT LAW
555 GRANT STREET
SUITE 323
PITTSBURGH, PA 15219

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ALEXANDRIA, VA 22313-1450
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Paper No.

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,638,480	:	DECISION ON REQUEST
Power et al.	:	FOR
Issue Date: December 29, 2009	:	RECONSIDERATION OF
Application No. 10/510,876	:	PATENT TERM ADJUSTMENT
Filed: June 20, 2005	:	and
Atty Docket No. SLII-P01-001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 9, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by an additional 364 days to one thousand and sixty-two (1062) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand and sixty-two (1062) days.

It is noted that the patent term adjustment is increased to 1062 days as requested by patentee. However, this reflects an additional 347 days, not 364 days of patent term adjustment. The patent issued on December 29, 2009, three years and 811 days after the agreed national stage commencement date of September 10, 2004. Considering the undisputed 37 day overlap, the patent term adjustment is properly increased by 774 (811 - 37) days for "B" delay. As 427 days of patent term was accorded at issuance, the proper increase in pta is 347 (774 - 427) for a total of 1062 days of patent term adjustment.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand and sixty-two **(1062)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,638,480 B2

DATED : **December 29, 2009** **DRAFT**

INVENTOR(S) : Power et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby
corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 715 days

Delete the phrase "by 715 days" and insert – by 1062 days--

#4

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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16 NOV 2006

Raymond Y. Chan
David & Raymond Patent Firm
108 N. Ynez Avenue, Suite 128
Monterey Park, CA 91754

In re Application of	:	
ZHAO	:	
Application No.: 10/510,877	:	DECISION ON PETITION
PCT No.: PCT/CN03/00234	:	
Int. Filing Date: 03 April 2003	:	UNDER 37 CFR 1.10(e)
Priority Date: 10 April 2002	:	
Atty. Docket No.: USP2762C-DRSH	:	
For: BAMBOO FIBRE AND ITS MANUFACTURE	:	

This is a decision on applicant's "Petition For Filing Information And Request For Status" filed 07 November 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition to reconstruct pursuant to 37 CFR 1.10(e).

BACKGROUND

On 03 April 2003, applicant filed international application PCT/CN03/00234 which claimed priority to an earlier U.S. application filed 10 April 2002. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 30 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 October 2004.

On 08 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by a copy of the international application.

On 28 February 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper response.

On 07 November 2006, applicant filed the present petition accompanied by a complete copy of the previous submitted papers, a return postcard and a certificate of mailing with Express Mail mailing number.

DISCUSSION

37 CFR 1.10(e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

A review of the application file finds applicant's original filing contained therein. As such, it is not necessary to consider the petition under 37 CFR 1.10(e) to accept the copies presently filed as having been filed on 08 October 2004. A review of the application file finds that the Form PCT/DO/EO/905 contained therein is for another application and was not mailed to the correspondence address for this application. It will therefore be vacated. However, a review of the papers filed in this application on 08 October 2004 reveals that applicant did not provide payment of the U.S. basic national fee. None of the boxes pertaining to payment were checked. Therefore, this application is abandoned as to the National stage in the United States.

RECOMMENDATION

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must

meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **DISMISSED as moot**.

The Form PCT/DO/EO/905 mailed 28 February 2005 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Abandonment (Form PCT/DO/EO/909).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

05 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Raymond Y. Chan
108 N. Ynez Avenue
Suite 128
Monterey Park, CA 91754

In re Application of	:	
ZHAO	:	DECISION ON PETITION
Application No.: 10/510,877	:	
PCT No.: PCT/CN03/00234	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 April 2003	:	
Priority Date: 10 April 2002	:	
Atty. Docket No.: USP2762C/SH056-ZZO	:	
For: BAMBOO FIBRE AND ITS MANUFACTURE	:	

The petition to revive under 37 CFR 1.137(b) filed 08 December 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 03 April 2003 under 35 U.S.C. 363 and will be given a date of **08 December 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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7/17/07

Patent No. :7357168
Ser. No. :10510922
Inventor(s) :Reinwald Mitsam
Issued : 4/15/08
Title : CONVEYANCE DEVICE IN AN EMBOSSING DEVICE
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

STEVEN T. ZUSCHLAG, ESQ.
HOFFMAN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

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OFFICE OF PETITIONS

In re Application of :
Patrick Michel White et al :
Application No. 10/510,934 : DECISION ON PETITION
Filed: May 20, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. PUS-P001-030 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 23, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Andre Lechot stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3733 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Kazuo Kubo	: DECISION ON REQUEST FOR
Patent Number	: 7598258	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/510,961	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1002** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

In re Application of
Scott Costa et al.
Application No. 10/510,966
Filed: August 29, 2005
Attorney Docket No. 25791.93.05

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

A courtesy copy of this decision is being mailed to the first named inventor at the address noted in the Declaration for Patent Application, as well as to the address noted in the request. If the attorneys with this firm desires to receive future communication concerning this application, proper power of attorney documents should be submitted.

There are no outstanding office actions at this time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Scott Costa
2011 Willow Point
Kingwood, TX 77339

cc: King & Spalding, LLP
1100 Louisiana Street, Suite 4000
Houston, TX 77002

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21 DEC 2006

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of
GUIDO GENTNER et al.
Application No.: 10/510,973
PCT No.: PCT/DE03/01075
Int. Filing: 01 April 2003
Priority Date: 12 April 2002
Attorney Docket No.: 2002PO6169WOUS
For: METHOD FOR DETECTING A CHECK-BACK SIGNAL IN AN OPTICAL TRANSMISSION SYSTEM

DECISION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371. This is also responsive to applicant's "Request for Withdrawal of Notification of Abandonment" via facsimile on 25 July 2006 in the United States Patent and Trademark Office (USPTO) in the above-captioned application. The Request is treated as a petition under 37 CFR 1.8(b).

On 3 May 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required, in that the current declaration was not in compliance with 37 CFR 1.66 or 1.68. The surcharge for filing the oath or declaration after the thirty month period was also required.

On 12 July 2006, a Notification of Abandonment was mailed to applicant indicating that applicant failed to reply to the 905 within the time period set therein.

On 25 July 2006, applicant filed a "Request for Withdrawal of Notification of Abandonment" via facsimile. Unfortunately, the 25 July 2006 submission was not signed by the attorney of record in the above referenced application. 37 CFR 10.18(a) emphasizes that every paper filed by a practitioner must be personally signed by the practitioner and states, in pertinent part, :

> For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, *each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.*

(Emphasis added.)

In the instant case, the submission on 25 July 2006 was not personally signed by the practitioner and thus is not an acceptable filing.

Furthermore, the "Request for Withdrawal of Notification of Abandonment" does not meet the requirements of 37 CFR 1.8(b).

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

The evidence filed with the present petition does not satisfy the requirements of 37 CFR 1.8(b). Applicant has not: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items by facsimile on 16 June 2005, (2) supplied complete copies of the previously faxed correspondence; and (3) provided a copy of the sending unit 's report confirming transmission on 16 June 2005 with a statement which attests on a personal knowledge basis to the previously timely transmission as required by 37 CFR 1.8(b). Applicants' petition under 37 CFR 1.8(b) is **DISMISSED WITHOUT PREJUDICE**.

CONCLUSION

Applicant's "Request for Withdrawal of Notification of Abandonment", treated as a petition under 37 CFR 1.8(b), is **DISMISSED WITHOUT PREJUDICE.**

This application is being held in the PCT Legal Office to await applicant's further reply.

The application remains ABANDONED.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 272-0459

11 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

In re Application of
GENTNER et al.
Application No.: 10/510,973
PCT No.: PCT/DE03/01075
Int. Filing Date: 01 April 2003
Priority Date: 12 April 2002
Attorney Docket No.: 2002P06169WOUS
For: METHOD FOR DETECTING A CHECK-BACK SIGNAL IN A N OPTICAL TRANSMISSION SYSTEM

DECISION

This is a response to applicants' "Renewed Request for Withdrawal of Notification of Abandonment" filed 04 January 2007.

BACKGROUND

On 03 May 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required, in that the current declaration was not in compliance with 37 CFR 1.66 or 1.68. The surcharge for filing the oath or declaration after the thirty month period was also required.

On 12 July 2006, a Notification of Abandonment was mailed to applicant indicating that applicant failed to reply to the 905 within the time period set therein.

On 25 July 2006, applicant filed a "Request for Withdrawal of Notification of Abandonment" via facsimile. In a decision mailed on 21 December 2006, applicant was advised that the 25 July 2006 submission was not signed by the attorney of record in the above referenced application and thus, under 37 CFR 10.18(a), the petition was not an acceptable filing.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 16 June 2005 under 37 CFR 1.8 is not located in the application file.

The failure of this response to reach the application file resulted in the abandonment of the application.

A review of the copy of the "Response to Notification of Missing Requirements" included with the present petition reveals that the Response included an executed Certificate Of Transmission in compliance with 37 CFR 1.8(a). The Certificate Of Transmission states that the Response was transmitted by facsimile to the USPTO on 16 June 2005.

Where, as here, correspondence transmitted in accordance with 37 CFR 1.8(a) was not received in the USPTO and abandonment results, 37 CFR 1.8(b) states that such correspondence will be considered timely if the mailing party satisfies the following three requirements:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

Based on the statements in the present petition, the copy of the Response provided with the present petition, the "Certificate of Transmission" present on the Response, and the facsimile confirmation report, it is concluded that Petitioner satisfied the requirements of 37 CFR 1.8(b). The Response is considered a timely response to the Notification of Missing Requirements. Accordingly, for purposes of determining the timeliness of the submission, the Response has a submission date of 16 June 2005.

The Response transmitted on 16 June 2005 and 04 January 2007 included the authorization to charge Deposit Account No. 19-2179 for the surcharge for filing the declaration after the thirty month period. It is noted, that for all purposes other than timeliness, these materials will be treated as having been filed on 04 January 2007, the date the present petition was filed.

The Notification Of Abandonment mailed 12 July 2006, based as it was on applicants' purported failure to file a timely response to the Notification of Missing Requirements mailed 03 May 2005, is appropriately vacated.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 July 2006 is

hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Cynthia M. Kratz
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Office of PCT Legal Administration
Tel.: (571) 272-3286
Fax: (571) 272-0459

05/11/2007 SBASHEIR 00000001 192179 10510973
Sale Ref: 00000001 DA#: 192179 10510973
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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Guido Gentner, et al.	:	
Application No. 10/510,973	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. 2002P06169WOUS	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Dickinson Wright, PLLC has been revoked by the assignee of the patent application on May 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **LERNER GREENBERG STEMER, LLP**
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

UNITED STATES PATENT AND TRADEMARK OFFICE

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12 JUL 2007

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

In re Application of	:	
ANDREEV et al.	:	
Application No.: 10/510,992	:	
PCT No.: PCT/US03/11193	:	
Int. Filing Date: 11 April 2003	:	DECISION ON REQUEST
Priority Date: 12 April 2002	:	&
Attorney Docket No.: NU-597XX	:	NOTIFICATION OF
For: MATCHED FILTRATION WITH EXPERIMENTAL NOISE DETERMINATION FOR DENOISING, PEAK PICKING AND QUANTITATION IN LC-MS		ABANDONMENT

This decision is issued in response to applicants' "Petition to Correct Filing Date" filed 12 April 2007. Additionally, this application is before the Office Of PCT Legal Administration for issues arising under 35 U.S.C. 371. No petition fee is required.

BACKGROUND

On 11 April 2003, applicants filed international application PCT/US03/11193. The application claimed a priority date of 12 April 2002 and designated the United States. Subsequent to the filing of the international application, pursuant to PCT Rule 26ter, applicants filed therein a declaration of inventorship under PCT Rule 4.17(iv). This declaration was executed by each of the three inventors; however, the declaration did not specifically identify the international application to which it was directed, that is, PCT/US03/11193.

On 23 October 2003, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 October 2004.

On 12 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and a copy of the declaration of inventorship under PCT Rule 4.17(iv) previously submitted.[1]

On 24 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that the declaration filed by applicants was defective for failure to properly identify the application to which it was directed. The Notification required submission of an oath or declaration acceptable under 37 CFR 1.497, as well as the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 11 July 2005, applicants filed a response to the Notification Of Missing Requirements. The submission included was not, however, accompanied by a new oath or declaration. Instead, applicant submitted a copy of the previously filed declaration, which had been amended to include to PCT application number.

On 04 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 11 July 2005.

On 12 April 2007, applicants filed a "Petition to Correct Filing Date."

DISCUSSION

Applicants request a corrected filing date (or 371(c) date) from 11 July 2005 to 12 October 2004. The actual filing date of the present application is the international filing date, i.e., 11 April 2003. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01)

A review of the application file and other Patent and Trademark Office records reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed by the DO/EO on 04 August 2005. Specifically, the declarations filed on 12 October 2004 is defective pursuant to 37 CFR 1.497(a)(2) and 37 CFR 1.63(b)(1), in that, the declaration does not identify the specification to which it is directed.

The instructions to the Rule 4.17(iv) declaration state: "[w]here the declaration was not included in the request, but is furnished later, the PCT application number MUST be indicated within the text of Box No. VIII (iv)." Consistent with this instruction, the text of

[1]Pursuant to 37 CFR 1.10(a), all documents were given a submission date of 12 October 2004.

the Rule 4.17(iv) declaration includes a line that expressly requires entry of the PCT international application number "if furnishing the declaration pursuant to Rule 26ter."

Here, the executed Rule 4.17(iv) declaration was not filed with the original international application materials. Accordingly, the declaration was required to include the PCT application number for the application to which it was directed, that is, PCT/US03/11193. Because the declaration does not include this PCT application number, the declaration is defective for failure to properly identify the specification to which it was directed. Applicants argue that the failure to identify the application "constitutes a harmless error when the transmittal letter and declaration is sent to the PTO in the same Express Mail envelope." Applicants' assertion is incorrect, in that, the declaration fails to meet "the minimum requirements" as set forth in the Manual of Patent Examining Procedure (MPEP). See MPEP §602(VI) Page 600-35.

The 11 July 2005 communication (Letter) was not a proper reply to the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 24 June 2005. The declaration filed 11 July 2005 is not in compliance with 37 CFR 1.497(a)-(b), in that, alterations were made to the declaration after it was executed. Specifically, the declaration submitted with the response included information (PCT international application number) that was not contained on the declaration filed 12 October 2004 and these alterations have been made after the declaration had been executed by the joint-inventors. (See 37 CFR 1.52(c) and Manual of Patent Examining Procedure § 605.04(a).)

Based on the above, applicants have failed to file an oath/declaration required in the Notification Of Missing Requirements mailed 24 June 2005. Because the failure to file the proper response does not appear to have been the result of an inadvertent omission (37 CFR 1.135(a)), applicants will not be accorded a new time period to correct the deficiencies in the response. Accordingly, the application is hereby held to be **abandoned**.

CONCLUSION

The present application is **ABANDONED** for failure to file a timely and complete response to the Notification Of Missing Requirements mailed 24 June 2005.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this Communication, including the mailing of a Notification Of Abandonment (Form PCT/DO/EO/909).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

12

DATE 9.6.07

APPLICATION NUMBER 10/510,992

DOC CODE PADEC.

DOC DATE 9-12-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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12 SEP 2007

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

In re Application of
ANDREEV et al.
Application No.: 10/510,992
PCT No.: PCT/US03/11193
Int. Filing Date: 11 April 2003
Priority Date: 12 April 2002
Attorney Docket No.: NU-597XX
For: MATCHED FILTRATION WITH EXPERIMENTAL NOISE DETERMINATION FOR DENOISING, PEAK PICKING AND QUANTITATION IN LC-MS

DECISION ON PETITION UNDER 37 CFR 1.137(B)

This decision is issued in response to applicants' "Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b)" filed 10 August 2007.

The procedural background for this application was set forth in detail in the decision mailed by this Office on 12 July 2007.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

With regard to Item (1), the proper response is the submission of the declaration of the inventors which complies with 37 CFR 1.497(a) and (b). A review of the declaration filed on 10 August 2007 reveals that the declaration is not in an acceptable form. Applicants have provided a defective executed composite declaration. Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration.

A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains duplicate sheets (see sheet no. 8 as listed on the Declaration: Inventorship (only for the purpose of the designation of the United States of America)). This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

Further, the declaration is defective and is insufficient to satisfy the oath or declarations requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration executed by Victor P. Andreev includes alterations that have not been initialed and dated by the inventor.

37 CFR 1.52(c) states:

(c) Any interlineation, erasure, cancellation or other alteration of the application papers filed should be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper . . .

Therefore, the declaration executed by Victor P. Andreev cannot be accepted at this time.

Since applicants have not met the requirements for revival of an application under 37 CFR 1.137(b), revival at this time would not be proper.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
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0 8 NOV 2007
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Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

In re Application of :
ANDREEV et al. :
Application No.: 10/510,992 :
PCT No.: PCT/US03/11193 :
Int. Filing Date: 11 April 2003 : DECISION ON
Priority Date: 12 April 2002 : RENEWED PETITION
Attorney Docket No.: NU-597XX : UNDER
For: MATCHED FILTRATION WITH EXPERIMENTAL NOISE DETERMINATION FOR DENOISING, PEAK PICKING AND QUANTITATION IN LC-MS : 37 CFR 1.137(B)

The renewed petition to revive under 37 CFR 1.137(b) filed 12 October 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted an oath/declaration and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,993	10/12/2004	Winfried Stubbe	PAT-01026	8766

26922 7590 12/04/2007

BASF CORPORATION
Patent Department
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE, MI 48192

EXAMINER	
EGWIM, KELECHI CHIDI	
ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
12/04/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LORI.HASS@BASF.COM
MARJORIE.ELLIS@BASF.COM
ANNE.SABOURIN@BASF.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mailed: 12-4-07

caf

In re application of	:	
Stubbe et al.	:	DECISION ON
Serial No. 10/510,993	:	PETITION
Filed: October 12, 2004	:	
For: AQUEOUS DISPERSION OF INORGANIC NANOPARTICLES, METHOD FOR THE PRODUCTION AND USE THEREOF	:	

This is a decision on the PETITION UNDER 37 CFR §1.181 requesting the restriction requirement in the office action mailed on January 17, 2007 be set aside as improper.

On January 17, 2007 a restriction requirement was mailed to applicants. In this requirement, the examiner held that the claims lack unity under PCT Rules 13.1 – 13.4 because the special technical feature linking the claims does not make a contribution over the art. Applicants traversed the restriction requirement in the response filed April 16, 2007. A final office action was mailed by the examiner on July 5, 2007, which made the restriction requirement final. The instant petition was then filed August 28, 2007. Accordingly, the instant petition is timely and will be decided on its merits.

DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/EP03/04645 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. The petitioner's request asserts that the reason given for restriction is improper and inadequate and petition for the restriction to be withdrawn. Petitioner further asserts the PCT rules do not require that patentability of any one or all of the claims must be established in order for the claims to have unity of invention. Thus, the Examiner's contention that there is no unity because claim 1 is allegedly anticipated or obvious is not a proper basis for finding lack of unity of invention. In the instant petition it is asserted that there is unity of invention among all of the groups since each group shares a common technical feature (i.e. an aqueous dispersion). The PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

> "those technical features which each of the claimed inventions, **considered as a whole, makes over the prior art.**" (Emphasis added)

In the instant case, the description and the claims set forth the special technical feature of an aqueous dispersion (see claim 1). However, the special technical feature of the aqueous

dispersion has been shown, at page 2 of the office action mailed January 17, 2007, to not make (be) a contribution over the prior art of US 6,599,631. Therefore, the examiner's finding that there is a lack of unity of invention between the groups as set forth in the restriction requirement was correct. The reason for such being that the groups constitute additional inventions not sharing a "special technical relationship" within the meaning of PCT Rule 13.2 since the identified "special technical feature" does not make a contribution over the prior art.

Accordingly, the petition is **DENIED.** The application remains in pending status awaiting a response to the final office action mailed July 5, 2007.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BASF CORPORATION
Patent Department
1609 BIDDLE AVENUE
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WYANDOTTE MI 48192

12 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Harold V. Stotland
Seyfarth Shaw LLP
55 E. Monroe Street
Chicago, IL 60603

In re Application of SHELLEY et al	:	
U.S. Application No.: 10/511,008	:	
PCT Application No.: PCT/AU03/00417	:	
Int. Filing Date: 07 April 2003	:	
Priority Date Claimed: 05 April 2002	:	DECISION
Attorney Docket No.: 400100	:	
For: PROCESS AND APPARATUS FOR USE IN PREPARING AN AQUEOUS MAGNESIUM BICARBONATE SOLUTION	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 12 October 2004.

BACKGROUND

On 07 April 2003, applicant filed international application PCT/AU03/00417, which claimed priority of an earlier Australia application filed 05 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 05 October 2004.

International application PCT/AU03/00417 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 October 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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03 AUG 2006

McGarry Bair
171 Monroe Ave., N.W.
Suite 600
Grand Rapids MI 49503

In re Application of :
FAUBLE et al. :
Application No.: 10/511,013 : DECISION
PCT No.: PCT/US03/11130 :
Int. Filing Date: 10 April 2003 :
Priority Date: 11 April 2002 :
Attorney Docket No.: 70078-0212 :
For: FUEL FILLER HOSE

This is a response to applicants' submission, treated as a "Petition under 37 CFR 1.8(b)" filed 18 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 April 2003, applicants filed international application PCT/US03/11130 which claimed a priority date of 11 April 2002.

On 08 October 2004, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371 with, *inter alia*, the requisite basic national fee.

On 17 June 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 12 July 2006, a Notification of Abandonment was mailed to applicant indicating that no reply to the 905 had been submitted.

On 18 July 2006, in response to the Notification of Abandonment, applicants filed the instant submission,which was accompanied by: a copy of "Response to Notification of Missing Requirements under 35 U.S.C. 371" and an executed declaration,in compliance with 37 CFR 1.497. Petitioner alleges that the executed declaration was submitted by facsimile on 21 June 2005.

DISCUSSION

At the outset it is noted that the submission of 18 July 2006 was not personally signed by the practitioner and thus is not an acceptable filing. 37 CFR 10.18(a) emphasizes

that every paper filed by a practitioner must be personally signed by the practitioner and states, in pertinent part, :

> For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

A review of the application file reveals that the original declaration allegedly filed 21 June 2005 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

Applicant has not submitted a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. The statement signed by the person having first hand knowledge is required. Applicant must also provided a copy of the sending unit 's report confirming transmission on 21 June 2005. Thus, Items (2) and (3) above are not yet satisfied.

CONCLUSION

Therefore, applicants' petition under 37 CFR 1.8(b) is DISMISSED WITHOUT PREJUDICE.

The application will be held in the Office of PCT Legal Administration to await applicant's reply.

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3286
Fax: (571) 273-0459

20 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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McGarry Bair
171 Monroe Ave., N.W.
Suite 600
Grand Rapids MI 49503

In re Application of :
FAUBLE et al. :
Application No.: 10/511,013 : DECISION
PCT No.: PCT/US03/11130 :
Int. Filing Date: 10 April 2003 :
Priority Date: 11 April 2002 :
Attorney Docket No.: 70078-0212 :
For: FUEL FILLER HOSE

This is a response to applicants' Petition to Withdraw the Holding of Abandonment, treated as a "Petition under 37 CFR 1.8(b)" filed 22 August 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 June 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 12 July 2006, a Notification of Abandonment was mailed to applicant indicating that no reply to the 905 had been submitted.

On 18 July 2006, in response to the Notification of Abandonment, applicants filed the instant submission, which was accompanied by: a copy of "Response to Notification of Missing Requirements under 35 U.S.C. 371" and an executed declaration, in compliance with 37 CFR 1.497. Petitioner alleges that the executed declaration was submitted by facsimile on 21 June 2005.

On 3 August 2006, a decision was mailed, dismissing the request to accept the declaration submitted by facsimile because the petition was not personally signed by the practitioner and thus was not an acceptable filing.

On 22 August 2006, applicant filed the instant petition along with a copy of the declaration which had be previously submitted via facsimile.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 21 June 2005 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicant has now submitted a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. Applicant also provided a copy of the sending unit 's report confirming transmission on 21 June 2005. Thus, Items (2) and (3) above are now satisfied.

The Notification of Abandonment is hereby VACATED.

The declaration filed on 22 August 2006 is accepted in lieu of the originally filed declaration filed 21 June 2005. The $130 surcharge for filing the declaration after the thirty month period will be charged to applicant's deposit account per their authorization. A review of the declaration reveals that it meets the requirements of 37 CFR 1.497(a) and (b).

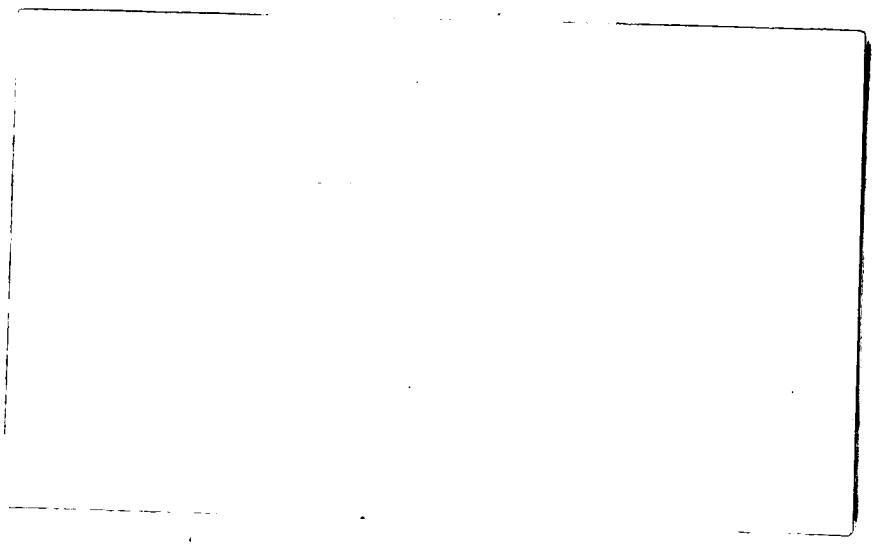
CONCLUSION

Therefore, applicants' petition under 37 CFR 1.8(b) is **GRANTED.** The declaration filed 26 August 2006 is accepted in lieu of the declaration, originally filed on 21 June 2005. The $130 surcharge for filing the declaration after the thirty month period will be charged to applicant's deposit account per their authorization.

The 11 July 2006 Notification of Abandonment is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **21 June 2005.**

Cynthia M. Kratz
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3286
Fax: (571) 273-0459



Application No.: 10/511,024 Docket No.: JCLA14658

REMARKS

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Response to Restriction Requirement

The Examiner has issued a restriction requirement dated June 27, 2006. According to the Office Action, the instant application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general invention concept under PCT Rule 13.1.

According to the species made by the Office Action, Applicant **elects the Specie A: drawn to claims 1-9, wherein claims 2-8 are dependent claims, with the electing of two herbs, which are Lightyellow Sophora Root and Isatis Leaf, in claim 1.**

Please cancel claims 10-13 without prejudice, disclaimer, or waiver.

Applicant also reserves the right to pursue the subject matter of the non-elected and cancelled claims 10-13 in a divisional application if Applicants so choose.

Additionally, Applicants would like to traverse the restriction requirement based on the following:

The instant application is a PCT International application filed under 371 as shown below in a cut-out portion from the corresponding 371 acceptance letter:

PAGE 7/11 * RCVD AT 8/16/2006 7:06:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/20 * DNIS:2738300 * CSID:9496600809 * DURATION (mm-ss):03-20

Application No.: 10/511,024 **Docket No.: JCLA14658**

U.S. APPLICATION NUMBER NO	FIRST NAMED APPLICANT	ATTY. DOCKET NO
10/511,024	Tetsuo Santo	JCLA14658

INTERNATIONAL APPLICATION NO.
PCT/JP02/03749

I.A. FILING DATE	PRIORITY DATE
04/11/2002	

J C Patents Inc
Suite 250
4 Venture
Irvine, CA 92618

CONFIRMATION NO. 8756
371 ACCEPTANCE LETTER

OC000000015976002

Date Mailed: 05/06/2005

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

04/06/2005	04/06/2005
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

Therefore, the restriction practice recited in MPEP 809.02(a) for applications which are Filed Under 35 U.S.C. 111 as described in the Restriction Requirement is clearly **NOT APPLICABLE.**

The instant application should be governed by the rules for applications filed under 35 USC 371 for "Unity of Invention" as recited in the MPEP 1850 "Unity of Invention before the International Searching Authority."

According to the MPEP 1850, the following are recited:

PAGE 8/11 * RCVD AT 8/16/2006 7:06:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/20 * DNIS:2738300 * CSID:9496600809 * DURATION (mm-ss):03-20

"... the International Searching Authority or the International Preliminary Examining Authority should not raise objection of lack of unity of invention merely because the inventions claimed are classified in separate classification groups or merely for the purpose of restricting the international search to certain classification groups.....

....**Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims.** .....

.....If the independent claims avoid the prior art and satisfy the requirement of unity of invention, **no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention.....**"

As a result, since only claim 1 is the independent claim and claims 2-13 are all dependent claims which dependent upon claim 1, the Unity of invention has to be considered in the first place only in relation to the independent claim 1 in the present international application filed under 35 USC 371 (PCT) and not the dependent claims 2-13. Therefore, claims 2-13 should be allowable as is.

Furthermore, one main argument in the Restriction Requirement on page 3 for basis for "the species lack the same or corresponding special technical feature" is that several of the claims are distinct "both physically and functionally from each other" and "search for one .... is not co-extensive with a search of any of the other ..."

However, as recited below from MPEP 1893.03(d): "....A group of inventions is

PAGE 9/11 * RCVD AT 8/16/2006 7:06:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/20 * DNIS:2738300 * CSID:9496600809 * DURATION (mm-ss):03-20

considered linked to form a single general inventive concept where there is a technical relationship among the inventions that **involves <u>at least one</u> common** or corresponding special technical feature. **The expression special technical features is defined as** meaning those technical features that define the **contribution which each claimed invention, considered as a whole, makes over the prior art....**"

It is important to note that the single general inventive concept of the instant application is as recited in page 1 in the specification: "... relates to a drinkable tea for therapy of dermatitis". There are certainly technical relationships present among the inventions of the medicinal herb and of the auxiliary material that **involves <u>at least one</u> common** special technical feature of "adding a pharmacological effect" (found in page 10). Therefore, the group of inventions in the instant application are considered linked to form a single general inventive concept, and amended claims 1-13 should be allowed.

PAGE 10/11 * RCVD AT 8/16/2006 7:06:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/20 * DNIS:2738300 * CSID:9496600809 * DURATION (mm-ss):03-20

Application No.: 10/511,024 **Docket No.: JCLA14658**

CONCLUSION

In view of the foregoing, claims 1-9 remain pending in the application. Favorable consideration and allowance of the present application and all pending claims are hereby courteously requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner is encouraged to contact the undersigned to discuss the application.

Respectfully submitted,
J.C. PATENTS

Date: 8/16/2006

Jiawei Huang
Registration No. 43,330

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Tel.: (949) 660-0761
Fax: (949)-660-0809

PAGE 11/11 * RCVD AT 8/16/2006 7:06:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/20 * DNIS:2738300 * CSID:9496600809 * DURATION (mm-ss):03-20

U.S. Patent Application

Application No.:	**10/511,024**
Filed:	**April 06, 2005**
Title:	**DRINKABLE TEA FOR THERAPY OF DERMATITIS**
Docket No.:	**JCLA14658**

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PETITION TO THE COMMISSIONER UNDER 37 C.F.R. §1.84

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a petition for filing color drawings/photographs in connection with the above-identified utility patent application under 37 C.F.R §1.84.

The reason why it is necessary to use color drawings/photographs in this application is as follows:

The above-identified application is directed to a drinkable tea for therapy of dermatitis. Figs. 1-7 are color drawings/photographs showing skin conditions on various parts of the patients' body before and after treatment using the product of the present invention.

Applicant believes that color drawings/photographs are the only practical medium to show the difference before and after the treatment.

Enclosed herewith are three (3) sets of the color drawings/photographs.

Approval of using the above-identified color drawings/photographs in the above-identified application is respectfully requested.

The Commissioner is authorized to charge the petition fee set ($130) forth in 37 C.F.R. §1.17(h) and any additional fees required in connection with the filing of this petition to our deposit account No. 500710 (order No. JCLA14658)

Respectfully submitted,
J.C. PATENTS

Date: 7-9-2007

Jiawei Huang
Registration No. 43,330

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HALLISKY LAW GROUP, PLLC
1725 West lake Avenue North,
Suite 150
Seattle, WA 98109

In re Application of :
MIRABEL, Jesus Molieiro *et al* :
U.S. Application No.: 10/511,025 :
PCT No.: PCT/CU03/00003 :
Int. Filing Date: 02 April 2003 :
Priority Date: 08 April 2002 :
Attorney Docket No.: 1071-2004002 :
For: PROCEDURE FOR OBTAINING :
OZONIZED VEGETABLE OILS AND :
FATS . . . :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 22 September 2005 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee, and petition fee have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

An executed declaration in compliance with 37 CFR 1.497(a) and (b) has been provided. Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 02 April 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 April 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN, NJ 07041

Mail Date: 04/21/2010

Applicant	: Philipp Janser	: DECISION ON REQUEST FOR
Patent Number	: 7589091	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **838** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

26 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

In re Application of HAVERI	:	
U.S. Application No.: 10/511,068	:	
PCT Application No.: PCT/IB03/01052	:	
Int. Filing Date: 14 March 2003	:	DECISION
Priority Date Claimed: 22 March 2002	:	
Attorney Docket No.: 2532-00358	:	
For: PARAMAGNETIC OXYGEN SENSING APPARATUS AND METHOD	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed 12 October 2004.

BACKGROUND

On 14 March 2003, applicant filed international application PCT/IB03/01052, which claimed priority of an earlier United States application filed 22 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 22 September 2004.

International application PCT/IB03/01052 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 October 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "the entire delay in entering the national stage in the United States from the due date for same until the filing of grantable petition pursuant to the above paragraph was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 12 October 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Application of	:	
Mi-Seon Song	:	
Application No. 10/511,076	:	ON PETITION
Filed: April 4, 2005	:	
Attorney Docket No. CU-6208 WWP/LKT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a response to the non-final Office action mailed October 18, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 19, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 3734 for appropriate action on the amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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SEP 12 2007

OFFICE OF PETITIONS

Applicant: Demitz et al.
Appl. No.: 10/511,122
International Filing Date: April 9, 2003
Title: HAIR CARE AGENTS CONTAINING PREGELATINIZED, CROSS-LINKED STARCH DERIVATIVES
Attorney Docket No.: 104035.283800
Pub. No.: US 2006/0039882 A1
Pub. Date: February 23, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 19, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as application published with the wrong abstract, as it does not include abstract filed with the amendment on June 20, 2005 and the publication includes drawings not filed with the application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request identifies Office errors in the publication, however the errors are not material Office error under 37 CFR 1.221(b). The errors are not material mistakes because the technical disclosure and the claims are understandable, as the information is also included summary of the invention and else where in the specification and since the application does not include drawings, none were omitted. The errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

It is noted that the abstract filed by preliminary amendment on June 20, 2005 does not comply with 37 CFR 1.121, as the abstract does not start on a separate page.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 21 2007

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United States Patent and Trademark Office
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www.uspto.gov

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:
Oliver Schadt et al	:
Serial No.: 10/511,155	: PETITION DECISION
Filed: October 14, 2004	:
Attorney Docket No.: MERCK-2932	:

This is in response to the petition under 37 CFR 1.144, filed June 19, 2007, requesting withdrawal of an improper Lack of Unity requirement. The petition was only recently forwarded for consideration.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on October 14, 2004, and contained claims 1-18. In a first Office action, mailed January 25, 2006, the examiner set forth a 9-way Lack of Unity requirement.

Applicants replied on February 27, 2006, electing Group VIII and a species, with traverse.

The examiner mailed a non-Final Office action to applicants on May 8, 2006, responding to the traversal, but maintaining the requirement. The elected claims were then rejected under 35 U.S.C. 101, 35 U.S.C. 112, first and second paragraphs, and 35 U.S.C. 102(b). Applicants replied on October 10, 2006.

The examiner mailed a Final Office action to applicants on January 19, 2007, making the Lack of Unity Final and maintaining some of the previous rejections of record.

Applicants replied by filing an amendment after Final on May 24, 2007 and a Notice of Appeal and Petition of the Lack of Unity requirement on June 19, 2007. Unaware of the June 19, 2007, papers, the examiner mailed a new Lack of Unity requirement to applicants on June 22, 2007.

Applicants filed an election in response thereto with a traversal on July 20, 2007. The examiner mailed a new non-Final Office action to applicants on September 11, 2007, to which applicants have not replied.

DISCUSSION

Inasmuch as the petition is directed to a Lack of Unity requirement which has been withdrawn by the examiner, the petition is moot and is dismissed. It should be noted that the Notice of Appeal is being held in abeyance in view of the continued prosecution.

DECISION

The petition is **DISMISSED**.

Applicant remains under obligation to reply to the Office action mailed September 11, 2007.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Oliver Schadt	: DECISION ON REQUEST FOR
Patent Number	: 7572796	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **184** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Commissioner for Patents
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Alexandria, VA 22313-1450
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19 DEC 2005

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of
ROTH et al.
Application No.: 10/511,163
PCT No.: PCT/US03/12281
Int. Filing Date: 21 April 2003
Priority Date: 19 April 2002
Attorney Docket No.: 02618.4006X0
For: COMPOSITE STRUCTURAL MATERIAL AND METHOD OF MAKING SAME

DECISION ON RESPONSE

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 21 April 2003, applicants filed international application PCT/US03/12281 which claimed a priority date of 19 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 October 2004.

On 14 October 2004, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified the international application as **PCT/US03/17281**. Applicants included a preliminary amendment and application data sheet, which referenced PCT/US03/12281.

On 05 April 2005, a Notification of Missing Requirements identifying international application **PCT/US03/17281**, was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 04 August 2005, applicants filed a response to the Notification of Missing Requirements, including an executed declaration, directed to PCT/US03/12281.

DISCUSSION

A review of the international publication for PCT/US03/12281 reveals that this is the international application corresponding to the application submitted here. However, the Transmittal Letter submitted by applicants misidentified the international application number as

PCT/US03/17281. Based on applicant's error, a national stage application file was created for PCT/US03/**17281**, rather than for PCT/US03/12281.

In order to continue processing the national stage application for PCT/US03/12281, applicant must submit a petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 14 October 2004. This petition must be accompanied by the $400 petition fee and a corrected version of the Transmittal Letter (Form PTO-1390).

Applicant is given TWO (2) MONTHS from the mail date of this Communication to submit the required petition. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

06 APR 2006

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of ROTH et al. Application No.: 10/511,163 PCT No.: PCT/US03/12281 Int. Filing Date: 21 April 2003 Priority Date: 19 April 2002 Attorney Docket No.: 02618.4006X0 For: COMPOSITE STRUCTURAL MATERIAL AND METHOD OF MAKING SAME	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicant's Request for Reconsideration of Decision on Response and Petition under 37 CFR 1.182 filed in the United States Patent and Trademark Office (USPTO) on 18 January 2006.

On 21 April 2003, applicants filed international application PCT/US03/12281 which claimed a priority date of 19 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 October 2004.

On 14 October 2004, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified the international application as **PCT/US03/17281**. Applicants included a preliminary amendment and application data sheet, which referenced PCT/US03/12281.

On 05 April 2005, a Notification of Missing Requirements identifying international application **PCT/US03/17281**, was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 04 August 2005, applicants filed a response to the Notification of Missing Requirements, including an executed declaration, directed to PCT/US03/12281.

On 19 December 2005, a decision on the response was mailed to applicant indicating that Transmittal Letter submitted by applicants identified the international application number as **PCT/US03/17281**. Based on applicant's error, a national stage application file was created for PCT/US03/**17281**, rather than for PCT/US03/12281.

On 19 January 2006, applicant submitted the instant petition. Applicants do not dispute the error but indicate that the correctly identified international application number appeared on accompanying papers. The transmittal letter submitted on 14 October 2004 did not clearly identify the PCT international application to which it was directed. Consequently, the US/DO/EO assigned U.S. serial number 10/511,163 as the national stage of PCT/PCT/US03/17281. In order to correct the identification of the 10/511,163 as the national stage of PCT/US03/12281, the petition under 37 CFR 1.182 is required. Per applicants' authorization, the petition fee of $400 will be charged to his deposit account.

Applicants' petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 14 October 2004 is **GRANTED**. U.S. application no. 10/511,163 is the national stage of PCT/US03/12281.

CONCLUSION

Applicants' Petition under 37 CFR 1.182 is **GRANTED**. The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision. U.S. application no. 10/511,163 is the national stage of PCT/US03/12281.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

26 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

In re Application of	
KOJIMA, Tetsuo	
Application No.: 10/511,170	
PCT No.: PCT/JP01/10905	DECISION
Int. Filing Date: 12 December 2001	
Priority Date: 14 December 2000	ON PETITION UNDER
Docket No.: 403220	
For: WAVELENGTH CONVERSION METHOD, WAVELENGTH CONVERSION DEVICE, AND LASER BEAM MACHINE	37 CFR 1.137(b)

Applicants' "Petition Pursuant to 37 CFR 1.137(b) to Revive an Unintentionally Abandoned Application," filed in the above-captioned application on 14 October 2004 is **GRANTED**.

Applicants state that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) and an English translation have been submitted. The fee for late filing of the oath or declaration and for late submission of the English translation will be charged to deposit account no.12-1216, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 14 October 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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28 NOV 2006

909
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, VA 22102

In re Application of :
LIENERT, Klaus-Wilhelm *et al* :
U.S. Application No.: 10/511,172 :
PCT No.: PCT/EP03/03836 :
Int. Filing Date: 14 April 2003 :
Priority Date: 15 April 2002 : **DECISION**
Docket No.: 007376-0312476 :
For: MICROCAPSULES FOR THE :
PRODUCTION OF STORAGE-STABLE :
UNSATURATED POLYMER :
COMPOSITIONS :

This decision is in response to the "Petition to Withdraw Holding of Abandonment Pursuant to 37 C.F.R. §1.181" filed on 02 August 2006. No fee is required.

BACKGROUND

On 09 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 16 March 2005, applicants purportedly filed via facsimile a reply to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration and authorization to charge the required fees to Deposit Account No. 03-3975.

On 28 April 2006, a status inquiry was filed.

On 17 July 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 09 March 2005 within the time period set.

On 02 August 2006, applicants filed the subject petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents

purportedly filed via facsimile on 16 March 2005 and a copy of an "Auto-Reply Facsimile Transmission" dated 16 March 2005.

DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 was filed via facsimile on 16 March 2005. This response included an executed declaration and authorization to charge the required surcharge fee. USPTO financial records show that the surcharge fee was charged on 16 March 2005. However, the declaration and other papers were not located in the file.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

In the subject petition, applicants request to withdraw the holding of abandonment and have provided a copy of the documents purportedly filed 16 March 2005. Applicants included an "Auto-Reply Facsimile Transmission" from the USPTO.

A review of the evidence shows that the USPTO received a facsimile on 16 March 2005. The cover page of the facsimile was titled "Certification of Facsimile Transmission Under 37 C.F.R. 1.8" and lists the proper U.S. application number, title and applicants. The document certifies that a "Response to Notification of Missing Requirements," "Fee Transmittal" and "Declarations Executed by the Inventors (8

pages)" were among the papers received. The statements in the petition are sufficient to satisfy item (3) of 37 CFR 1.8(b). Moreover, the surcharge fee of $130.00 was charged in the subject application on 16 March 2005.

This evidence meets the requirements of 37 CFR 1.8(b) and is sufficient for a grantable petition.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 17 July 2006 is hereby **VACATED**.

The declaration originally filed 16 March 2005 is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 April 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 16 March 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 05, 2007

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction on Patent No.: 10/511189 7061746B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments:

US Patent 6,208,500 was considered by the examiner (see the IDS filed 10/12/2004). 6,208,500 discloses a high quality factor capacitor.
US Patent 6,298,500 discloses a ventilated toilet seat.

Allen A. Flanigan
SPE

2831
Art Unit

PTO/SB/44(07-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,061,746 B2
APPLICATION NO. : 10/511,189
ISSUE DATE : June 13, 2006
INVENTOR(S) : Hichem Abdallah et al.

It is certified that error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title Page

Page 2, in column 1, line 5, under "U.S. PATENT DOCUMENTS", delete "6,208,500 B1" and substitute --6,298,500 B1-- in its place.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Scott W. Brim
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610

PATENT NO. 7,061,746 B2

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAR 14 2007

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Commissioner for Patents
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April 5, 2007

Patent No. : 7,061,746 B2
Ser. No. : 10/511189
Inventor(s) : Abdallah, et al.
Issued : June 13, 2006
Title : **SEMICONDUCTOR COMPONENT WITH INTEGRATED CAPACITANCE STRUCTURE HAVING A PLURALITY OF METALLIZATION PLANES**
Docket No. : 10808-170

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

The request to correct US Patent 6,208,500 was considered by the examiner (see the IDS filed 10/12/04). US Patent 6,208,500 discloses a high quality factor capacitor. US Patent 6,208,500 discloses a ventilated toilet seat.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

CBN/eme